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DISCRIMINATION AGAINST INDIGENOUS PEOPLES

Report of the Working Group on Indigenous Populations on its eleventh session

Chairperson-Rapporteur: Ms. Erica-Irene A. Daes

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Note. The Declaration of the World Uranium Hearing, Salzburg, September 1992, is contained in an addendum to the present report.

Introduction

Mandate

1. The creation of the Working Group on Indigenous Populations was proposed by the Sub-Commission on Prevention of Discrimination and Protection of Minorities in its resolution 2 (XXXIV) of 8 September 1981, endorsed by the Commission on Human Rights in its resolution 1982/19 of 10 March 1982, and authorized by the Economic and Social Council in its resolution 1982/34 of 7 May 1982. In that resolution the Council authorized the Sub-Commission to establish annually a working group to meet in order to:

(a) Review developments pertaining to the promotion and protection of human rights and fundamental freedoms of indigenous peoples, including information requested by the Secretary-General annually from Governments, specialized agencies, regional intergovernmental organizations and non-governmental organizations in consultative status, particularly those of indigenous peoples, to analyse such materials, and to submit its conclusions to the Sub-Commission, bearing in mind the final report of the Special Rapporteur of the Sub-Commission, Mr. José R. Martínez Cobo, entitled "Study of the problem of discrimination against indigenous populations" (E/CN.4/Sub.2/1986/7 and Add.1-4);

(b) Give special attention to the evolution of standards concerning the rights of indigenous peoples, taking account of both the similarities and the differences in the situations and aspirations of indigenous peoples throughout the world.

2. In addition to the review of developments and the evolution of international standards, which are separate items on the Working Group's agenda, the Group has over the years considered a number of other issues relating to indigenous rights. The study by the Special Rapporteur, Ms. Erika-Irene Daes, requested by the Sub-Commission in its resolution 1992/35, on the protection of the cultural and intellectual property of indigenous peoples (E/CN.4/Sub.2/1993/28) was available to the Working Group. It was considered under item 7.

Participation in the session

3. In its decision 1992/111 of 27 August, the Sub-Commission decided on the following composition of the Working Group at its eleventh session: Mr. Miguel Alfonso Martínez, Ms. Judith Tsefi Attah, Mr. Volodymyr Boutkevitch, Ms. Erica-Irene A. Daes and Mr. Ribot Hatano.

4. The session was attended by Mr. Alfonso Martínez, Ms. Attah, Mr. Boutkevitch, Ms. Daes and Mr. Hatano.

5. The following States Members of the United Nations were represented by observers: Argentina, Australia, Bangladesh, Bhutan, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, Cyprus, Denmark, Ecuador, El Salvador, Finland, Germany, Greece, Guatemala, Honduras, India, Indonesia, Japan, Mexico,

Myanmar, New Zealand, Nicaragua, Norway, Panama, Peru, Philippines, Russian Federation, Sweden, United Kingdom of Great Britain and Northern Ireland, United States of America.

6. The following non-member States were represented by observers: Holy See and Switzerland.

7. The following United Nations departments and specialized agencies, and other organizations were also represented by observers: Department of Public Information, International Labour Organisation, United Nations Educational, Scientific and Cultural Organization, Nordic Council of Ministers, Aboriginal and Torres Strait Islander Commission of Australia.

8. The following non-governmental organizations in consultative status with the Economic and Social Council were also represented by observers:

(a) Organizations of indigenous peoples

Grand Council of the Crees of Alberta (Quebec), Indian Council of South America, Indian Law Resource Center, Indigenous World Association, International Indian Treaty Council, International Organization of Indigenous Resource Development, National Aboriginal and Islander Legal Service Secretariat, Nordic Sami Council and World Council of Indigenous Peoples.

(b) Other organizations

Category II

African Association of Education for Development, Afro-Asian People's Solidarity Organization, Amnesty International, Anti-Slavery International, Baha'i International Community, Commission of the Churches on International Affairs of the World Council of Churches, Defence for Children International, Four Directions Council, Friends World Committee for Consultation, International Association of Educators for World Peace, International Federation Terre des Hommes, International Fellowship of Reconciliation, International League for the Rights and Liberation of Peoples, International Service for Human Rights, International Work Group on Indigenous Affairs and Women's International League for Peace and Freedom.

Roster

International Federation for the Protection of the Rights of Ethnic Religious, Linguistic and Other Minorities, Minority Rights Group, Procedural Aspects of International Law Institute, Survival International and Third World Movement against the Exploitation of Women.

9. The following indigenous peoples' organizations and nations, as well as other organizations and groups, were represented at the session and provided information to the Working Group with its consent:

Aboriginal Law Center, Aboriginal and Torres Strait Islander Commission, Ainu Association of Hokkaido, Alaska Inuit, Alliance of Taiwan Aborigines, American Indian Movement of Colorado, Anishinabo First Nations, Apache

Survival Coalition, Asian Indigenous Peoples Pact, Asociación de Comunidades del Pueblo Guaraní, Asociación Indígena de la República Argentina, Asociación Interétnica de Desarrollo de la Selva Peruana, Asociación de los Estudiantes Indígenas de Madre de Dios, Association of Koriak People, Big Trout Lake First Nation, Central Land Council, Centro Mocovi Ialek Lav'a, Centro Union Achiri - Mitka, Circle of Indigenous Elders, Chamorro - Organization of People for Indigenous Rights (Guam), Chirapaq (Peru), Chittagong Hill Tracts Hill Peoples Council, Chukchi People - L'Auravetl'an Foundation, Inc., Comisão por la Criacão do Parque Yanomani, Comisión Jurídica de los Pueblos de Integración Tawantinsuyana, Comité Exterior Mapuche, Comité Intertribal Memoria e Ciencia Indígena, Comité Organizador Indígena Kaqchique, Confederacy of Treaty of Six First Nations, Confederación de Pueblos Autóctonos de Honduras, Congrès populaire du peuple kanak - Nouvelle Calédonie, Conseil des Atikameku et des Montagnais, Consejo de Todas las Tierras, Consejos de la Gran Confederación Maya, Conselho Indigena Roraima, Consultorio Jurídico Kunas, Cook Inlet Tribal Council, Coordinadora Nacional de los Pueblos Indígenas de Panamá, Cordillera Peoples Alliance, Dalit Youth Movement (India), Dalit Solidarity Programme (India), Dene Nation Ecuarunari (Ecuador), Elders Circle of the Crees, Embera - Orewa (Organización Regional Indígena Embera), Even People, Federación de Centros Shuar Achuar, Federación Indígena y Campesina de Imbabura (Ecuador), Federación Nativa de Peru, Federación Provincial Indígena Aymara, Federation of Saskatchewan Nations, Finno-Ugrik Peoples Consultative Committee, Foundation Papua People, Frente Independiente de Pueblos Indios (Mexico), Front national pour la liberation kanak socialist (FLNKS), Haudenosaunee, Hmong People, Homeland Mission 1950 for South Moluccas, Hui' Na Auao, Iina Torres Strait Islanders Corporation, Indian Council of Indigenous and Tribal Peoples, Indian Movement Tupay Katari, Jana Samhati Samiti, Ka Lahui Hawaii, Kamp - National Federation of Indigenous Peoples Organizations in the Philippines, Karen National Union, Karen Youth and Women Organization, Kimberley Land Council, Lakota Nation, Lil'Wat Nation, Lubicon Cree, Lumad Mindanao Peoples Federation (Philippines), Maa Development Association (Kenya), Maori Legal Service, Maori Women's Welfare League, Mapuche People, Mataatua Confederation of Tribes, Mikmaq Grand Council, Miskito Yatama, Mohawk Nation, Muskogee Indian Nation, Na Koa O Pu'u Kohola, Nation Huronne - Wendate - Quebec, National Coalition of Aboriginal Organizations, National Committee to Defend Black Rights Aboriginal Corporation, National Maori Congress, National Socialist Council of Nagaland, National Union of Swedish Saami People, Native American Sioux/Seneca, Native Council of Nova Scotia, Native Hawaiian Advisory Council, New South Wales Aboriginal Land Council, Ngai Tahu Iwi, Ngati Te Ata, Nuba Mountains Solidarity Abroad, Onondoga Nation, Opetchesaht - Dene Nation, Oraon - (Indian Tribal Organization), Organización de las Mujeres del Trópico de Cochabamba, Otautahi Culture Group, Pacific Asia Council of Indigenous Peoples, Parlamento Indígena (Panama), Parlamento Indígena de Américas, Rehoboth Baster Community of the Republic of Namibia, Second World Indigenous Youth Conference, Sengwer Cherangany Cultural Group (Kenya), Servicios del Pueblo Mixo A.C., Sitksan and Wet'Sowet'en Nations (Canada), Small Peoples of North Siberia, Southern Sudan Group, Survie Touaregue Temoust, Sycuan Band of Mission Indians, Te Kotahitanqa o Tai Tokerare, Te Runanga o Whaingaroa, Teton Sioux Nation Treaty Council, Tuscarora Nation - Haudenosaunee, Unrepresented Nations and Peoples Organization, West Papua People Front, 1993 World Indigenous People Conference: Education.

10. The following organizations and groups were represented:

Action for Solidarity, Equity, Environment and Development, Alaska Native Human Resource Development Program, Alliance for the Rights of Indigenous Peoples, Anthropological Association of the Philippines, Asociación Cultural Sejekto de Costa Rica, Association de soutien aux nations amerindiennes, Associazione Ricreativa Culturale Italia, Atl Tlachinolli, Big Mountain Aktionsgruppe, Bureau for Indigenous and Minorities, Center for World Indigenous Studies, Centre d'information et de documentation pour les peuples indigènes et commission transnationale, Centro Cultural Wiphala Aymara de Bolivia, Centro Documentazione Etnie, Comité belge - Amérique indienne, Comité de soutien avec les Tucanos, Cultural Survival (Canada), Cultural Survival (United Kingdom), Democratic Progressive Party - Indigenous Affairs Committee, Dutch Center for Indigenous Peoples, Earth First, Educational Society of Nagaland, European Alliance with Indigenous Peoples, Federal Congress of Development Action Groups in Guam, Federation of Aboriginal Education Consultative Groups (Australia), Fonds mondial pour la sauvegarde des peuples autochtones, Foundation to Promote Indigenous Bilingual Education - BITO (in the Americas), Fourth World Center, Fourth World Center for the Study of Indigenous Law and Politics, Friends of People Close to Nature, Fundación Yanantin, Health for Minorities, Helsinki Committee - Kosovo, Global Coalition for Bio-Cultural Diversity, Incomindios, Indigenous Committee of the Presbyterian Church in Taiwan, International Medical Forum for Human Rights Health and Development, Institut de recherche et de documentation de l'île de Quisoueya, Institut pour l'Amérique latine (Austria), International Movement against Discrimination and Racism, Foundation Pavo, Kamchatua Film Company, Konaseema Educational Society, Kwia Flemish Support Group for Indigenous Peoples, Lelio Basso International Foundation for the Rights and Liberation of Peoples, Liga Internacional de Mujeres pro Paz y Libertad, Ligue des droits de l'homme (Section pérouge), MacArthur Foundation, Médecins sans frontières, Moral Re-Armament, Movimiento Acción Resistencia, Movimiento Indio por la Identitad National, New Zealand Human Rights Commission, NGO Committee on the International Indigenous Year, One World Now, Peekaboo, Performing and Fine Artists for World Peace, Rainforest Foundation, Saskatchewan Indian Federated College, Society for Threatened Peoples, Swissaid, The Galilee Society, The Montagnard Foundation, The Nature Conservancy, The South & Mesoamerican Indian Information Center, Traditions pour demain, Tremembe - Brasil, Tribal Act, Tribal Ecology Center, United Church of Christ (Philippines), United Nations Association (UK), World Uranium Hearing.

11. In addition to the above-mentioned participants, 108 individual scholars, experts on human rights and human rights activists and observers attended the meetings. Among them was the United Nations Goodwill Ambassador and Nobel Prize Laureat, Mrs. Rigoberta Menchu Tum. More than 600 people attended the eleventh session of the Working Group.

Election of officers

12. At its 1st meeting, on 19 July 1993, at the proposal of Mr. Alfonso Martínez, supported by Mr. Hatano and Mr. Boutkevitch, the Working Group re-elected by acclamation Ms. Erica-Irene Daes as Chairperson-Rapporteur for the tenth time in succession.

Organization of work

13. At its 1st meeting, the Working Group considered and adopted the provisional agenda, contained in document E/CN.4/Sub.2/AC.4/1993/L.1.

14. The Working Group held 16 public meetings, from 19 to 30 July 1993. The Working Group decided to devote the 2nd to 10th meetings to item 4 on standard-setting activities, five meetings to item 5 on review of developments, one meeting to items 6 and 7 related to the studies by the Special Rapporteur on the study of treaties, agreements and other constructive arrangements and on the study on the cultural and intellectual property of indigenous peoples, and one meeting on the remaining items of the agenda related to the International Year of the World's Indigenous People, the World Conference on Human Rights, the future role of the Working Group and other matters. Three extended meetings were held during the second week of the Working Group. In accordance with established practice, the Working Group continued to meet in private during and after the subsequent session of the Sub-Commission for the purpose of finalizing its report and adopting the recommendations contained therein.

Documentation

15. The following documents were made available to the Working Group:

Provisional agenda (E/CN.4/Sub.2/AC.4/1993/L.1);

Note on the future role of the Working Group by the Chairperson-Rapporteur, Ms. Erica-Irene A. Daes (E/CN.4/Sub.2/AC.4/1993/8);

Draft declaration on the rights of indigenous peoples - revised working paper submitted by the Chairperson-Rapporteur, Ms. Erica-Irene A. Daes (E/CN.4/Sub.2/1993/26) and explanatory note concerning the draft declaration by the Chairperson-Rapporteur (E/CN.4/Sub.2/1993/26/Add.1);

Information received from the Governments of Finland and Mexico (E/CN.4/Sub.2/AC.4/1993/1); the Government of Chad (E/CN.4/Sub.2/AC.4/1993/1/Add.1) and the Government of Spain (E/CN.4/Sub.2/AC.4/1993/4);

Information received from United Nations organs and specialized agencies: United Nations Development Programme, World Health Organization (E/CN.4/Sub.2/AC.4/1993/2); and the United Nations Educational, Scientific and Cultural Organization; Food and Agriculture Organization of the United Nations; International Labour Organisation (E/CN.4/Sub.2/AC.4/1993/2/Add.1);

Information received from indigenous peoples and non-governmental organizations: Sami Parliament (E/CN.4/Sub.2/AC.4/1993/3), the Centre for the Study of Developing Societies (India) (E/CN.4/Sub.2/AC.4/1993/3/Add.1) and the Movement "Tupay Katari" (E/CN.4/Sub.2/AC.4/1993/6 and E/CN.4/Sub.2/AC.4/1993/9);

Study on cultural and intellectual property of indigenous peoples by the Special Rapporteur, Ms. Erica-Irene Daes (E/CN.4/Sub.2/1993/28);

Review of developments pertaining to the promotion and protection of human rights and fundamental freedoms of indigenous populations, including economic and social relations between indigenous peoples and States - Information furnished by the Economic Commission for Latin America and the Caribbean (E/CN.4/Sub.2/AC.4/1993/CRP.1);

Review of developments - Information received from Manu Ariki Marae (E/CN.4/Sub.2/AC.4/1993/CRP.2);

Review of developments pertaining to the promotion and protection of human rights and fundamental freedoms of indigenous populations, including economic and social relations between indigenous peoples and States - Information received from the Netherlands (E/CN.4/Sub.2/AC.4/1993/CRP.3);

Draft Declaration on the rights of indigenous peoples, as revised by the members of the Working Group on Indigenous Populations (E/CN.4/Sub.2/AC.4/1993/CRP.4);

The Mataatua Declaration on Cultural and Intellectual Property Rights of Indigenous Peoples, June 1993 (E/CN.4/Sub.2/AC.4/1993/CRP.5).

Other documents

Report on Santiago Meeting (E/CN.4/Sub.2/1992/31);

Study on treaties, agreements and other constructive arrangements between States and indigenous populations by the Special Rapporteur, Mr. Miguel Alfonso Martínez (E/CN.4/Sub.2/1992/32);

Report of the Working Group on Indigenous Populations on its tenth session (E/CN.4/Sub.2/1992/33 and Add.1.)

Report on the Nuuk Seminar (E/CN.4/1992/42);

The Rights of Indigenous Peoples (Fact Sheet No. 9);

General Assembly resolution on the International Year of the World's Indigenous Populations (47/75);

Adoption of the report

16. The report of the Working Group was adopted on 16 August 1993.

I. GENERAL DEBATE

17. A representative of the Assistant Secretary-General for Human Rights and Coordinator of the International Year of the World's Indigenous People delivered the opening statement. He drew attention to the provisional agenda of the eleventh session of the Working Group on Indigenous Populations which

contained several new items. He referred in particular to the study of the Special Rapporteur on the cultural and intellectual property of indigenous peoples, to the International Year of the World's Indigenous People, to the World Conference on Human Rights, as well as to the future role of the Working Group of Indigenous Populations itself. He recalled that the Working Group had been requested by the Commission on Human Rights, in resolution 1993/[illegible], and by the World Conference on Human Rights, in its final document, to complete its drafting of the declaration on the rights of indigenous peoples. He also recalled that the Working Group had before it the progress report of the Special Rapporteur on treaties, agreements and other constructive arrangements between States and indigenous populations and should review developments pertaining to the promotion and protection of the human rights and fundamental freedoms of indigenous populations. In all, the task before the Working Group was a formidable one

18. The representative of the Assistant Secretary-General reported on the results of two recent meetings that were of importance to indigenous peoples. Firstly, the recommendations made to the General Assembly in the Programme of Action contained in the Final Document of the World Conference on Human Rights requested the Commission on Human Rights to consider how the Working Group's mandate could be renewed and updated, that an international decade of the world's indigenous people be proclaimed, to begin in January 1994, and that, in the framework of such a decade, a permanent forum for indigenous people should be established. Secondly, the reconvened technical meeting on the International Year which was held from 14 to 16 July at Geneva had adopted a series of recommendations aiming at practical action to be taken during the remainder of the year and calling for adequate resources and planning with the full participation of indigenous peoples.

19. The representative expressed the view that, while it was clear that the rights of indigenous peoples were now formally and fully part of the United Nations agenda, this did not mean that the concerns of indigenous peoples were being adequately met by the programmes of the United Nations system. More could be done to ensure that the existing mechanisms and programmes of the Centre for Human Rights - especially the opportunities which existed through the treaty bodies and the Voluntary Fund for Technical Cooperation - could respond better to the needs of indigenous peoples. The eventual declaration on the rights of indigenous peoples would serve as a guiding document not only for States but also for those United Nations organizations concerned with operational activities and technical assistance. He paid tribute to the Working Group: to the dedication of its five members, to the skill, energy and commitment of its Chairperson-Rapporteur of nearly 10 years, and to the many hundreds of representatives of indigenous nations, peoples and communities who had shared their experiences over the years, making the Working Group the motor for change in the United Nations system, where ideas were born and new programmes generated.

20. In her opening statement, the Chairperson-Rapporteur stressed the importance of the eleventh session of the Working Group on Indigenous Populations. The session fell at the mid-point of the International Year of the World's Indigenous People and therefore provided the participants with an opportunity to take stock of the progress made thus far, as well as to consider ways to ensure that the Year would be a success. The Year should

lead up to the adoption of a comprehensive United Nations agenda for indigenous people, the outline of which should be discussed during this session of the Working Group so as to enable it to be considered by the Secretary-General in his report on the results of the Year. Secondly, the Chairperson-Rapporteur noted that during the session the drafting of the United Nations declaration on the rights of indigenous peoples, begun in 1985, should be completed. During the period 1985-1993, the indigenous peoples of the world community, governmental organizations, specialized agencies and other organizations had expressed their views and provided information on which the declaration was based. In particular, indigenous peoples and representatives had actively participated in the drafting process.

21. The past 12 months had been an exciting and challenging time for indigenous peoples, since international interest and concern for issues relating to indigenous peoples had grown considerably. She stressed, however, the continuing critical lack of resources for the taking of concrete action by the United Nations. Nowhere had that been more apparent than in the management of the International Year of the World's Indigenous People which, despite the best intentions of the sponsors of the initiative, had thus far attracted the least amount of financial support of any major United Nations international year or celebration. She also regretted that the stated interest of many international agencies in developing programmes to support indigenous people's self-development, especially in the environmental field, had not yet been translated into reality. This was very disappointing, in view of the expectations raised by the United Nations for more than a decade as well as in view of the shift of the challenge for the Working Group: in the early days its work was concerned with the survival and humane treatment of indigenous peoples but was now giving indigenous peoples the opportunity to make their own contribution to the national development and progress of the countries in which they live. These countries now looked to the United Nations for models and concrete support in building a new social compact with indigenous peoples - one that could help strengthen national unity as well as cultural integrity, human rights, development and democracy.

22. The decision of the General Assembly to include a special item on the agenda of the World Conference on Human Rights commemorating the International Year of the World's Indigenous People was gratifying. The Vienna Declaration adopted by the Conference recognized "the inherent dignity" of indigenous people, as well as the "value and diversity of their distinct identities, cultures and social organization", and the importance of respecting the rights of indigenous peoples for ensuring national stability and development. More concretely, the Vienna Declaration supported providing United Nations technical assistance to indigenous peoples in the field of human rights, through the programme of advisory services. It also endorsed indigenous peoples' own calls for extending the International Year into a decade, called on the Working Group to complete the drafting of the declaration on indigenous rights and recommended further consideration of the creation of a permanent forum for indigenous peoples within the United Nations system. The latter recommendation was the first official acknowledgement by any United Nations body of indigenous peoples' aspirations for a formal place in United Nations decision-making. In that connection, the Chairperson-Rapporteur appealed to the Assistant Secretary-General for Human Rights to establish as soon as possible the already envisaged special unit for indigenous peoples within the

Centre for Human Rights. She also requested the Secretary-General to elaborate a substantive mandate for and define the role of the Goodwill Ambassador, Mrs. Rigoberta Menchú Tum, as soon as possible, with her advice and express consent, authorizing her, inter alia, to exchange views with Governments on the specific problems which must exist in the countries she visited during her United Nations missions and to discuss, among other things, possible projects from which the indigenous peoples and the Governments concerned would both benefit.

23. The Chairperson-Rapporteur informed the meeting of the results of two recent meetings convened as a follow-up to last year's United Nations Conference on Environment and Development (UNCED). The Preparatory Committee for the International Conference on Population and Development agreed at its first substantive session to include some specific sections on indigenous peoples in its outline for the final act of the conference, to be held in Cairo in September 1994. Also, the United Nations Commission on Sustainable Development had endorsed, inter alia, the recommendation of UNCED that the United Nations should organize formal annual consultations with indigenous peoples to ensure that the United Nations operational activities took account of their rights and perspectives at a global level. The Chairperson-Rapporteur hoped that the relevant United Nations programmes and specialized agencies would take the opportunity provided by the present session of the Working Group to discuss with indigenous representatives a plan for the implementation of that extremely important decision. She further appealed to all the indigenous peoples represented at the meeting to make every effort to attend all of the United Nations meetings which concerned them and to participate actively and conscientiously in all of the work, so as not to lose the important new momentum.

24. Mr. Alfonso Martínez, explaining that he had been unable to attend a meeting with representatives of indigenous peoples in Alaska because of an unreasonable delay in processing his visa application at the United States consulate, as requested by the United Nations representative in Havana, urged Governments to facilitate the work of the Special Rapporteur in the fulfilment of his mandate.

25. The observer for Australia expressed his gratitude for Ms. Daes' visit to Australia in June 1993 and for her efforts to engender universal awareness of the plight of indigenous peoples. The current session of the Working Group was important not only because of the International Year of the World's Indigenous People but also because Australia was scrutinizing its obligations toward its Aboriginal and Torres Strait Islander peoples in the light of the High Court of Australia's decision on Native Title in the case of Mabo v. Queensland. He expressed the hope that the Working Group could reach a consensus on a balanced text for the declaration, acceptable to indigenous peoples, Governments and the international community. The report of the Working Group would be more useful if the observer Governments which made comments were identified and if the section on review of developments was structured along the lines of the draft declaration. The Commission on Human Rights should establish a working group to consider the draft declaration, with the participation of indigenous people.

26. The observer for the Dene Nation requested a postponement of the consideration of agenda item 4 because of the differences in the texts of the draft declaration between documents E/CN.4/Sub.2/1992/23 and E/CN.4/Sub.2/1993/26 on which the debate would be based.

27. The Chairperson-Rapporteur said that document E/CN.4/Sub.2/1993/26 was based on the discussion of last year and included views and suggestions of indigenous peoples and Governments. Apart from article 3 on self-determination no radical changes had been introduced.

28. The Chairperson-Rapporteur, replying to a question from the observer for Colombia, said that the documents of the Technical Meeting on the International Year of the World's Indigenous People were in the process of being edited and translated and would hopefully be available to the meeting.

29. At the 2nd meeting, the Chairperson-Rapporteur invited the participants to observe a minute of silence in commemoration of all indigenous people who had died in the past centuries in the struggle to defend their fundamental rights.

30. The United Nations Goodwill Ambassador, Ms. Rigoberta Menchu Tum, participated in the 4th to 14th meetings. She expressed her appreciation to the Working Group and its Chairperson-Rapporteur. Under agenda item 4, she stressed the importance of the draft declaration for the struggle of indigenous peoples and, under agenda item 5, summarized the most pressing concerns of indigenous peoples in relation to recent developments.

31. At the 4th meeting, the Deputy-Minister of the State Committee of the Russian Federation on the North Affairs addressed the Working Group. The Working Group had become a focal point for indigenous affairs. She endorsed the recommendations made by the World Conference on Human Rights to declare a decade of the world's indigenous people and to create a permanent forum to address indigenous people's issues.

32. The Working Group was addressed by the Under-Secretary-General for Policy Coordination and Sustainable Development who spoke about the role and mandate of this unit in the follow-up of UNCED, in particular as regards the participation of indigenous peoples in the process of sustainable development.

33. The Premier of the Home Rule Government of Greenland noted that developments over the past 11 years had shown that the recognition of indigenous peoples and their right to self-determination were not destructive to State unity. He commended the role the United Nations had played and continued to play in promoting the cause of indigenous peoples, by recognizing that the rights of indigenous peoples must be treated as distinct from the minorities issue and by establishing the Working Group, thereby giving indigenous peoples a forum for standard-setting activities as well as a place to raise matters of concern to them.

34. In her concluding statement the Chairperson-Rapporteur said that the eleventh session of the Working Group had been one of the most successful sessions held so far. The second and final reading of the draft declaration had been successfully completed, two studies by members of the Working Group

had been considered and a debate on a future role for indigenous peoples in the United Nations system had begun. Speaking of the progress made on standard setting she recalled that the Sub-Commission, the General Assembly at its forty-seventh session and the World Conference had called on the Working Group to complete the drafting of the declaration. All amendments to the draft declaration made by participants during the second reading would be taken into consideration by the Working Group before it submitted its report, containing a revised draft of the declaration, to the Sub-Commission. Indigenous representatives would have an opportunity to address the Sub-Commission and the Commission on Human Rights and make their views known during the debate on the draft declaration.

35. The Chairperson-Rapporteur also addressed the future role of the Working Group, emphasizing that a number of highly interesting suggestions had been made by indigenous peoples and observer Governments. The World Conference on Human Rights had recommended to the General Assembly that it consider updating the mandate of the Working Group and establishing a permanent body for indigenous peoples within the United Nations. In that connection, she referred to her note on the future role of the Working Group (E/CN.4/Sub.2/AC.4/1993/8).

36. The Chairperson-Rapporteur emphasized that the eleventh session of the Working Group once again gathered a large number of participants, observer Governments, organizations of the United Nations system, indigenous, nations, organizations and communities and non-governmental organizations as well as individual experts and scholars, in total more than 600 persons. She mentioned that many indigenous representatives had received assistance from the Voluntary Fund to attend the Working Group. She expressed her gratitude to all the Governments which had contributed to the Voluntary Fund, and to the Chairman of the Board of Trustees of the Voluntary Fund. She also thanked the members of the Working Group and all participants for their work and the secretariat for its support. She further expressed her gratitude to the Indigenous Centre for Documentation, Research and Information and the International Service for Human Rights for the technical support and assistance they had provided to indigenous representatives.

II. EVOLUTION OF STANDARDS CONCERNING THE RIGHTS OF INDIGENOUS PEOPLES

37. At the 2nd meeting, the Working Group considered agenda item 4. After the meeting the representatives of the indigenous peoples held two informal consultations the conclusions of which were reported to the Working Group by Mr. Moana Jackson of the Maori Legal Services at the 3rd meeting.

38. The Working Group started the second reading of the draft declaration at its 4th meeting. On the basis of the discussion of the draft declaration held during the previous meetings the Working Group elaborated a new draft which was presented by the Chairperson-Rapporteur at the 5th meeting on 21 July 1993. It was agreed to use the word "articles", not "paragraphs", in future in the draft declaration. The new draft, on which the further reading of the draft declaration was based, is contained in document E/CN.4/Sub.2/AC.4/1993/CRP.4.

A. General comments

39. At the 4th meeting, the United Nations Goodwill Ambassador, Ms. Rigoberta Menchú Tum, addressed the meeting. The draft declaration would have to be an instrument which facilitated the struggle of all indigenous peoples. Thus far, the drafting procedure had shown considerable progress but before the declaration could be enshrined within the framework of international instruments, gaps needed to be filled. It would be paramount to reach consensus on the issue of self-determination. Furthermore, the right to ownership of land by indigenous peoples could not become a peripheral issue. Unfettered enjoyment of those rights created the very essence of the cultures and societies of indigenous peoples and must be entrenched in the document. There were many promising developments. Thus far, the discussions had displayed the perseverance and unity of indigenous peoples as well as the good will of a number of States. It was essential that the draft not be viewed as a threat to Governments or a source of friction, but as a mechanism which would eliminate conflict in the future.

40. The observers for a number of Governments emphasized that the Working Group was called upon to finish the draft declaration at this session and expressed their hope that this aim could be achieved. Representatives of indigenous peoples also expressed their commitment to the drafting process but some of them stressed that the speedy finalization of the declaration could not be an end in itself; the declaration should reflect indigenous peoples' aspirations in the best possible way. A number of representatives of indigenous peoples also expressed the view that the draft declaration should be short and clear so as to provide a document which was accessible and understandable to all indigenous peoples, not only to those involved in the current process.

41. The observers for several Governments stressed that the Working Group was called upon to produce a document that could be accepted by the other organs of the United Nations. The observer for Chile expressed the readiness of his Government to participate in the elaboration of a consensus document.

42. Another issue which was frequently addressed by governmental observers was the need to make the draft declaration as flexible as possible. The observer for Japan pointed out that a flexible text was needed so as to take into account the different historical and social contexts in which indigenous peoples lived, as well as the different administrative systems of the countries concerned. The observer for Norway stressed that such flexibility must be followed by strong protection of the rights of indigenous peoples.

43. The observers for some Governments pointed out that the draft declaration in its present form did not contain a definition of "indigenous peoples". The observer for Japan expressed the concern that this might give rise to subjective interpretations as to which groups were entitled to the rights contained in the declaration.

44. The Chairperson-Rapporteur replied that, for the purposes of the draft declaration, the working definition of "indigenous peoples" contained in the study by Maretinez Cobo (E/CN.4/Sub.2/1983/21/Add.8, paras. 362-382) should be applied.

45. The observer for Canada recognized that working papers E/CN.4/Sub.2/26 and E/CN.4/Sub.2/1993/CRP.4 contained some of the views of his Government. He added that all rights under the declaration should be available, without discrimination, to both male and female persons and proposed that a provision to this effect be included.

46. The observer for a non-governmental organization drew attention to the fact that the draft declaration in its present form did not contain any implementation mechanism. The observer for the International Indian Treaty Council suggested that the draft declaration should include a number of issues which were missing in the present text: the rights of indigenous workers should be included and reference made in this context to ILO Convention No. 169 of 1989; an article on genocide should be elaborated and the right of indigenous peoples to have access to health services should be included.

47. Several representatives of indigenous peoples commented on the need to use the term "peoples", in the plural, both in the draft declaration and in other documents because the singular form was perceived by indigenous peoples as discriminatory, denying them rights available to other peoples.

48. Following a request for clarification of the terms "cultural genocide" and "ethnocide", the Chairperson-Rapporteur explained that "cultural genocide" referred to the destruction of the physical aspects of a culture, while "ethnocide" referred to the elimination of an entire "ethnos" and people.

B. Comments on specific provisions of the draft declaration

49. During the discussion a number of questions proved to be of particular importance to the participants. A great number of indigenous representatives and of governmental observers expressed their views on the issue of "self-determination", on the implications of using or not using the term "indigenous peoples" and on the issue of "collective rights" and "land rights".

50. The majority of the governmental observers expressed reservations on the issue of self-determination. The observer for Canada emphasized that his country supported the principle that indigenous people qualified for the right of self-determination in international law on the same basis as non-indigenous people. In all other cases "self-determination" of indigenous people had to be granted within the framework of existing nation States. The notion of self-determination as used in the draft declaration implied the right of indigenous people to unilaterally determine their political, economic and social status within the existing State, while it was not clear how the concepts of self-determination, self-government and autonomy which were addressed in articles 3 and 29 of the draft interrelated and what the range of powers of indigenous governments would be and how they would relate to the jurisdiction of existing States.

51. The observer for Finland stated that his country was in favour of the use of the concept of self-determination in the draft declaration. The observer for Denmark stated that the exercise of the right of self-determination was a precondition for any full realization of human rights for indigenous peoples. His country supported the formulation in the draft declaration that indigenous

peoples had the right to autonomy and self-government in matters relating to their internal and local affairs. The enjoyment of the right to autonomy and self-government constituted the minimum standard for the survival and the well-being of the world's indigenous peoples.

52. The observer for New Zealand stated that a distinction could be made between the right of self-determination as it currently existed in international law, a right which developed essentially in the post-Second World War era and which carried with it a right of secession, and a proposed modern interpretation of self-determination within the bounds of a nation State, covering a wide range of situations but relating essentially to the right of a people to participate in the political, economic and cultural affairs of a State on terms which meet their aspirations and which enable them to take control of their own lives. He suggested seeking language on self-determination which committed Governments to work with indigenous peoples in a process of empowerment within the State in which they lived.

53. The observer for Chile stated that the draft declaration should recognize the right of indigenous people to self-determination but that that concept had to be made subordinate to the concept of unity and territorial integrity of States. In the same context, the observer for Australia suggested that, in order to relieve the inherent tension between the concepts of self-determination and territorial integrity, language be included to ensure that nothing in the draft declaration would be construed as authorizing or encouraging any action which would be detrimental to the territorial integrity of States. Such an approach was already taken in the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations.

54. The observer for the Russian Federation said that when discussing the issue of self-determination it must be borne in mind that indigenous peoples lived in very different regions of the world and that they might require totally different aspects of self-government. She felt that paragraph 29 did not cover all aspects that fell under the notion of self-determination and self-government and suggested that the declaration should contain only the general principle.

55. The observer for Brazil pointed out that some of the concepts proposed in the draft might encounter difficulty in being accepted by many Governments, in particular those relating to self-determination as defined by existing international law, the extent of the rights of property over indigenous lands, demilitarization of indigenous lands, and the impossibility of removal of indigenous populations from their lands.

56. The opinion of the indigenous peoples was expressed by Mr. Moana Jackson who reported on the conclusions reached in the informal meeting held by the representatives of indigenous peoples. They were worried about attempts to limit the concept of self-determination to the conduct of internal affairs. He stated that the right of self-determination, contrary to what the observer for New Zealand had said, was not primarily a post-Second World War concept but had existed since time immemorial and was not dependent exclusively on international law for its understanding. Indigenous peoples claimed for themselves a right to a subjective definition of the right to

self-determination. The informal meeting proposed to amend articles 3 and 29 of the draft declaration as contained in document E/CN.4/Sub.2/1993/26. The issue of self-determination should be dealt with in a new article 1 and be worded along the lines of the two International Covenants on Human Rights.

57. A number of representatives of indigenous peoples expressed the view that the right of self-determination was the pillar on which all the other provisions of the draft declaration rested and the concept on which its integrity depended. One argued that there seemed to be consensus that the right of self-determination should be considered a rule of jus cogens, implying that this right was of such a profound nature that no State could derogate from it. Many representatives of indigenous peoples emphasized that the declaration must express the right of self-determination without any limitations or qualifications.

58. In this context representatives of indigenous peoples voiced their concern that the right of self-determination as contained in articles 3 and 29 might give rise to restrictive interpretations. The observer for the National Aboriginal and Islander Legal Services pointed out that while all other peoples were granted the full right to self-determination as defined by the International Covenants, the declaration seemed to limit indigenous peoples' right to self-determination. The observer for the Nordic Sami Council proposed that the issue of self-determination, in accordance with its importance, should be dealt with in the first operative paragraph or article and that the exact wording of article 1 of the two International Covenants should be used. The observer for the Haudenosaunee Nation, delivering a joint statement on behalf of the indigenous representatives of Australia, made similar proposals.

59. The observer for the Aboriginal and Torres Strait Islander Commission mentioned the recent visit of the Chairperson-Rapporteur to Australia and recalled that during her visit she had suggested that a distinction be made between "external" self-determination, by which peoples liberated themselves from imposed alien rule, and "internal" self-determination, by which collective groups of indigenous peoples sought to preserve and develop their cultural and territorial identity within the political order of the State in which they lived. The observer stressed the fact that "self-determination", to Australia's indigenous peoples, meant to seek increasing autonomy in terms of self-management and self-government but was not understood as a mandate for secession. Therefore, a need to stress the territorial integrity of States in the draft declaration could not be perceived.

60. The observer for the American Indian Movement of Colorado expressed the view that the right of "self-determination" could not be limited to those peoples who had already established their States. He emphasized that accepting a concept of "self-determination" which encompassed not merely self-government but the right to freely choose a political status would not automatically lead to the dismemberment of States. Conflict and disruption were not caused by demands for the right to self-determination, as some Governments had suggested, but by the fact that peoples were forced to assimilate into States that did not respect their distinctive identities.

61. A number of scholars also expressed their views on the concept of self-determination. Prof. Maivan Lam stated that she shared the view of the majority of indigenous peoples present. She stressed that indigenous peoples had the same right as all other peoples to self-determination and that many international jurists today held the view that the right of self-determination had achieved the status of jus cogens and was therefore not subject to changes by States. Moreover, she drew attention to the fact that the International Court of Justice had in the Western Sahara case expressed the view that the right to self-determination belonged to peoples, not to States. Prof. Thornberry emphasized that the international law on self-determination was not static. Although a powerful case could be made that self-determination formed part of jus cogens, the precise form taken by self-determination was subject to historical change. He pointed out that the concept of self-determination as it was shaped by the Working Group was itself part of the change. Prof. Jim Anaya argued that the right of self-determination was a long-standing idea. He referred to two aspects of self-determination: one constitutive, the other ongoing. The first was linked to the rights of peoples to determine their political status, the second concerned the rights of groups and individuals to make meaningful choices in matters of concern to them on an ongoing basis. He added that secession was not usually desirable and could in many cases prove to be detrimental to the interests of indigenous peoples.

62. Another issue which was frequently addressed was the use of the term "indigenous peoples". Observers for Governments expressed their concern that the use of the term "peoples" would have implications under international law, because of its link with the right of self-determination. The observer for Canada proposed that the draft declaration should contain a provision specifying that the term "peoples" had no consequences for the right of self-determination under international law. If such a clarification were not made it would mean that there was a right to secede; even if secession were not chosen, it would still imply the right of indigenous peoples to enact laws concerning their political, economic, social and cultural status without regard to or application of the laws of the surrounding State.

63. The observer for Brazil noted that the use of the term "peoples" instead of "people" was not consistent with that in other United Nations documents, including chapter 26 of Agenda 21.

64. The observer for Sweden proposed adding an explanatory definition such as the one included in ILO Convention No. 169 of 1989, which provided that "the use of the term 'peoples' in this Convention shall not be construed as having any implications as regards the rights which may attach to the term under international law." The observer for Norway stated that his delegation supported the proposal to use the term "indigenous peoples" in the plural, in the draft declaration so as to meet the indigenous peoples' own requests.

65. Mr. Jackson voiced the concern of indigenous representatives, expressed at the informal consultations, that they not be addressed as "indigenous peoples" in the declaration. That was to destroy their collective basis and to continue colonial domination. They should be referred to as "indigenous people" or "populations".

66. Many representatives of indigenous peoples stressed that the term "peoples" had primarily historical implications for them. The Chief of the Grand Council of the Crees, for example, pointed out that they had defined themselves as peoples since time immemorial. Others emphasized that only the use of the term "peoples" would reflect the notion of collectivity on which indigenous life was based. The term "indigenous people" or "populations" signified only a group of individuals and therefore denied them their collective identity.

67. The observer for the Indian Council of Indigenous and Tribal Peoples suggested that the language of the draft declaration should follow ILO Convention No. 169 and use the term "indigenous and tribal peoples" so as to include the Asian peoples who are usually referred to as tribal peoples.

68. A number of participants raised the question of "collective rights". The observer for the United States of America pointed out that the draft declaration referred in numerous instances to the collective rights of indigenous groups. She expressed concern about the fact that those references went far beyond the limited collective rights recognized in international law or the practice of States. The draft declaration did not define "indigenous peoples". Hence, there were no criteria for determining what groups of persons could assert the proposed new collective rights. She expressed concern that in some circumstances the articulation of group rights could lead to the submergence of the rights of individuals.

69. The observer for Sweden stated that the notion of collective human rights should be formulated carefully. The concept of human rights flowed from the idea of the inherent rights of each individual. This concept should not become weakened or ambiguous. Therefore, indigenous rights, even when exercised collectively, should be based on the non-discriminatory application of individual rights. He suggested an approach similar to the one adopted in the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities.

70. On the question of "land rights", the observer for Canada stated that the draft declaration drew no distinction between "lands" and "territories", nor was it clear whether they were intended to mean only those lands and territories where indigenous people had or could establish legal titles to all lands and territories which they claimed. The provision in article 24 that indigenous people "have the right to own, control and use their lands and territories", in combination with the statement in article 23 that lands and territories are those that have been "traditionally owned or otherwise occupied or used", gave those articles a far-reaching effect. Article 25, establishing a principle of restitution of land, is also problematic for Canada which had devised a system of negotiated settlements (comprehensive land claims agreements) with indigenous people. The observer reiterated the Canadian recommendation that a "reasonable limits" clause should be introduced in the declaration in order to enable more Governments to support it.

71. The observer for Sweden pointed out that, while the land rights of indigenous populations were generally discussed in terms of ownership and possession, he stressed the importance of "usufruct", a strongly protected

legal right to use land, as an alternative concept. The Swedish Supreme Court had recognized the right of "usufruct" as a customary right of the Sami population in one large land area.

72. The observer for Finland stated that the article on land rights was quite far reaching even in comparison to article 14 of ILO Convention No. 169. The ILO Convention made a distinction between lands traditionally occupied by indigenous peoples and lands "not exclusively occupied by them". He recommended that a similar approach be taken in the draft declaration.

73. The observer for the Dene Nation emphasized that the declaration must include a clear right of indigenous peoples to own their lands and resources. Similarly, the observer for the Nordic Sami Council stressed that the draft declaration should clearly guarantee the ownership of traditional lands by indigenous peoples and recognize their hunting and fishing rights; other concepts, like mere "usufruct", as suggested by the Swedish delegate, were not able to meet the concerns of all indigenous peoples.

74. The observer for the International Labour Office suggested that reference be made in the preamble to ILO Convention No. 169 of 1989, while a number of indigenous representatives expressed doubts about the appropriateness of such a reference since that Convention, inter alia, narrowed the concept of self-determination and had been ratified by a very small number of States.

75. The Chairperson-Rapporteur read out the text of revised article 3 on self-determination, contained in document E/CN.4/Sub.2/AC.4/1993/CRP.4. It met with the approval of all representatives of indigenous peoples and other participants.

III. REVIEW OF DEVELOPMENTS PERTAINING TO THE PROMOTION AND PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS OF INDIGENOUS POPULATIONS

76. Agenda item 5 was discussed at the 11th to the 15th meetings, from 27 to 30 July 1993. One hundred and twenty six speakers addressed the item. The Working Group decided to adapt a proposal by Australia to structure the report on agenda item 5 along the lines of the draft declaration. Therefore, the subheadings of this section reflect the main issues addressed in the draft declaration.

77. In her introduction to agenda item 5 the Chairperson-Rapporteur emphasized that the review of developments pertaining to the promotion and protection of human rights and fundamental freedoms of indigenous populations was a fundamental part of the mandate of the Working Group as set out in Economic and Social Council resolution 1982/34. The item was of great importance to indigenous peoples and at the same time it provided invaluable information to the members of the Working Group and to other participants.

78. Ms. Rigoberta Menchú Tum, addressed the Working Group under agenda item 5. She said that on the basis of the requests that she had received over the last year, she was of the impression that the following issues were of the greatest importance to indigenous peoples: land rights, the participation of indigenous peoples in decision-making procedures, the militarization of

indigenous communities and forced displacement, as well as cultural repression. Moreover, she underlined the importance of indigenous participation in the United Nations system, especially in development programmes.

A. Right of self-determination and political participation

79. Indigenous participants reported on their struggle for self-government and increased participation in decision-making processes affecting their lives. Some acknowledged steps taken by Governments to give them greater autonomy while others described situations of repression or assimilationist policies. One representative mentioned, for example, that although indigenous peoples formed the majority of the country, their participation in public life was kept to a minimum. Numerous representatives referred to the importance which the articles on self-determination in the draft declaration would have in their further efforts for recognition of their political status.

80. An indigenous representative pointed out that although the Government in his country recently abandoned the notion of a "racially homogenous country", his people had not been recognized as indigenous yet but only as "minorities" and that the Government used the lack of a definition of "indigenous peoples" in international law as an excuse for its policy.

81. The observer for India explained that the application of the term "indigenous people" was not adequate for his country because its entire population had been living on its lands for several millennia. All these people were indigenous and any attempt to make a distinction between indigenous and non-indigenous would be artificial. He elaborated further on the efforts made to promote the rights and interests of the scheduled castes and tribes: a National Commission had been constituted to monitor all matters relating to the safeguards provided for those groups; moreover, poverty alleviation and development programmes had been designed to strengthen the economic and social status of those most vulnerable groups of society. The observer expressed grave concern at the appearance in the Working Group of persons who, in his opinion, were openly secessionist and xenophobic.

82. An indigenous representative drew attention to the fact that even in the International Year of the World's Indigenous People, the authorities of her country did not recognize the existence of "indigenous peoples". The Government referred to her people by using the expression "isolated groups", who were described as primitive and backward and their ideological and technical systems simple.

83. The observer for Norway reported on the activities of the Sami parliament which started its work in 1989 and could take initiatives in all matters that were of concern to the Sami people.

84. Following Finland and Norway, the Swedish Government had passed a law constituting a Sami parliament in December 1992. The primary task was to nurture a living Sami culture in Sweden. It would allow the Sami people to participate in public planning and to ensure that their needs were taken into consideration in the utilization of land and water resources. Legislation had

also been passed to ensure that only members of Sami communities could engage in reindeer herding and to prohibit any use of the land which would interfere with this activity.

85. The observer for Finland presented a review of developments during the past year concerning the legal position of the Sami. An amendment to the Parliament Act stated that the parliament would hear representatives of the Sami before deciding on matters which closely affected them. An amendment to the Constitution concerning basic elements of the Sami administration was currently under preparation. The amendment aimed at delegating decision-making powers from the central administration to the local level.

86. The president of the Sami Council stated that although the current level of self-determination and self-government was limited, recent developments were promising: with the establishment of the Swedish Sami parliament all Nordic countries now had constitutional and legal arrangements for Sami self-government. As a next step, the Sami people would try to achieve membership in the Nordic Council.

87. The observer for Canada pointed out that in parallel with the land claim agreements that had been concluded over the last year, negotiations on self-government had been conducted. An example was the two Acts regarding the territory of Nunavut. These Acts provided for Nunavut to have its own public government with a commissioner, cabinet, legislative assembly, public service and territorial court. Residents of the area, Aboriginal or non-Aboriginal, would thus have greater control over decisions affecting their lives.

88. The observer for the United States noted that the Charter of the United Nations referred arguably to the principle of self-determination, not the "right".

89. The observer for an indigenous organization pointed out that since New Caledonia had been put back on the list of non-autonomous territories by the Special Committee of 24, France refused to communicate to the Secretary-General of the United Nations relevant information on the political, economic, social and cultural situation of his country, which was indispensable for the process of decolonization initiated in 1987. His delegation was opposed to the Matignon Agreement which postponed their opportunity to achieve independence and provided for a referendum in 1998 when Kanak voters would be a minority. The signing of the Matignon Agreement was not based on a free decision by the Kanak people and it did not open the door to self-determination.

B. Right to life, to exist in peace and to protection against genocide

90. An indigenous representative appealed for intervention in order to put an end to genocide in his country. He mentioned that his people were in danger of extinction and that the population had dwindled to less than 1 million because of war, and that 85 per cent of their villages had been destroyed. He claimed that his people were subject to "ethnic cleansing", that their language was forbidden and that their women were forced into mixed marriages.

91. An observer for a non-governmental organization of the Asian region drew attention to the fact that 500,000 of his people were living in refugee camps in a neighbouring country as a result of a civil war. He reported that this country had announced that it would close all refugee camps by the beginning of 1994 and expressed concern that forced repatriation might result in massacres by government forces, as had been witnessed before.

92. One indigenous representative recalled that his land was militarily occupied by two countries which were committing serious human rights violations. He mentioned that his people had been subjected to indiscriminate killings, torture, rape and starvation and that many of them had been put into concentration camps. Moreover, he accused the Government of systematically preventing access by reporters to the territories of his people. As a result of this policy little or no information about the events taking place had reached the attention of the world community.

93. An indigenous representative described the genocide taking place in her country. Despite the fact that democracy had been restored, indigenous territories were still under military rule. Over 600 gross human rights violations had been committed by the military forces of the Government during the past year, including looting, arson, religious persecution, detention, torture, rape, murder and mass killings. In one incident 1,600 people were burned in their village. The Government had entered into a negotiating process with the tribal peoples; however, so far it had shown no real commitment to finding a political solution.

94. Another indigenous representative stated that his people faced extinction. He described that his people, who lived in a mountainous area, were surrounded by troops and subject to attacks by helicopter gunships. Survivors were forced into desert camps, where starvation prevailed. Moreover, the Government had so far not allowed international aid agencies to bring humanitarian relief to his people.

95. The representative of Amnesty International referred to its 1992 report, the first publication focusing solely on indigenous peoples. Attention was drawn to human rights violations which ranged from the discriminatory use of the death penalty against indigenous persons and discrimination in the criminal justice system of many States, deaths in custody and extrajudicial executions, to land and resource conflicts. Indigenous peoples were often caught between two sides when internal conflicts took place.

96. Indigenous representatives from different regions of the world expressed their concern over the Human Genome Diversity Project (HUGO), which had been nicknamed the "Vampire Project". Over 700 indigenous communities worldwide had been targeted by this project, under which scientists would take blood, hair and tissue samples of indigenous peoples in order to record and examine the gene structure. This issue was of great concern because samples had been taken without any consultation with the indigenous people concerned or information about the project.

C. Protection in armed conflict

97. An indigenous observer from the Asian region described the conditions that women and children were living in because of attacks by the armed forces on the ethnic civilian population. Armed government forces were patrolling the villages, interrogating and torturing the villagers. All the men had to hide in the mountains, because they were suspected of being in the armed resistance. Soldiers stole food and raped the women, even in the presence of their children and parents. Women, including pregnant women, and children were made to carry out forced labour. In particular, women and children were used as human minesweepers. Many indigenous children died before the age of five because of lack of medicines and doctors.

98. An observer of an indigenous group noted that this year, an indigenous human rights worker was shot and killed by the armed forces while on his way to document human rights abuses. The incident was portrayed by the media as the result of inter-tribal conflicts. In her country, indigenous men are forced to participate in paramilitary groups which were used against the indigenous community. This was destroying the unity of the communities concerned; however, communities which could not fill their recruitment quota were subject to military reprisals. Military regulations had severely restricted traditional economic activities. For example, the curfew hours prevented people from cultivating fields located at some distance from the villages and had disrupted the entire agricultural cycle.

99. An indigenous observer from South America explained that her society was matriarchally based and that women formed the spiritual centre of society. That way of life was endangered because the territories of her people had been chosen for the construction of the biggest landing strip and port in the region. At the same time the region had become an important centre for drug trafficking. Women were suffering from the militarization of the area and the illnesses brought in by the soldiers. Indigenous people were often forced to carry drugs across the border which divides their ancestral lands. Therefore, the border police assumed that all indigenous women were drug traffickers and subjected them to body checks, which were carried out in an inhumane and degrading way.

100. One observer for an indigenous group spoke about the impact of internal war on children, who were bound to reproduce a climate of violence when they became adults. Many children were also materially or morally abandoned. Because of this international adoption was promoted, hence children were growing up in far-away countries and losing their indigenous identity.

D. Right to practise cultural traditions, religion and language

101. Many indigenous representatives voiced their concerns about the misunderstanding and misinterpretation of their respective cultures. While cultural traditions served indigenous peoples as a spiritual source of their identity, they were often viewed as backward and primitive by the public. It was alleged that Governments were actively oppressing indigenous cultures. One observer said that the use of his indigenous language and the wearing of traditional clothes were forbidden in schools; all written materials, including indigenous legal documents, had been destroyed.

102. An indigenous observer stated that his Government emphasized that the country had only 400 years of history, thus denying the history of the indigenous peoples who had inhabited the island for 6,000 years. He accused the Government of promoting a policy of assimilation by prohibiting the use of indigenous languages and the teaching of indigenous history. Another indigenous observer pointed out that his Government had implemented forcible religious conversion in his community. All indigenous persons who were not willing to adopt the new belief were subjected to persecution.

103. An indigenous observer, speaking on behalf of the second World Indigenous Youth Conference, emphasized in particular the demand of indigenous youth to be able to learn their own languages and learn their own histories, traditions and values.

104. An indigenous observer mentioned the lack of protection of Native American religion and sacred places in the legislation of the United States. She said that her people were facing interference with their religious ceremonies and the desecration of a sacred site. She referred to Mount Graham, the foundation of their culture, which was being desecrated by a project to build three telescopes. As their pleas to stop the project had remained unheard by the international sponsors, her people were now engaged in a lawsuit to stop the project.

105. The observer for Norway recalled that the right to learn the Sami language has been guaranteed by law for a long time. The right has been strengthened by a recent amendment to the Act on Primary Schools. Moreover, an amendment to the Sami Act had been adopted that gave Sami speakers the right to use their language in their contacts with local and regional authorities.

E. Right to education and to establish own media

106. The observer for an indigenous non-governmental organization addressed the importance of education by saying that it could serve as a vehicle for change and empowerment. In this context the third World Indigenous People's Conference: Education, which will be held in Wollongong, Australia, in December 1993, was mentioned. The theme of the conference will be: "Listen, learn, understand, teach - the answers are within us". One of its major aims will be to share educational and other life experiences between the world's indigenous peoples.

107. The observer for New Zealand reported that initiatives of the Maori community regarding education were being supported by the Government. This included using Maori language as the medium for instruction in early childhood and primary education. Further initiatives were being considered by the Maori community including secondary education in the Maori language. These developments now made the achievement of all levels of education in the Maori language possible.

108. One indigenous observer stated that education for indigenous children should not only be conducted in their own language but should also apply indigenous teaching techniques and methodologies. Under the current

system 80 per cent of the children of his people did not finish primary school, only 15 per cent finished secondary school and only 1 per cent obtained a university degree.

109. An indigenous observer from Canada reported that the authorities refused to translate into French a film entitled "Acts of Defiance", which had been produced by a government agency, about the confrontation between Mohawks and the Government during the so-called "Oka crisis", because it could upset the French Canadian public. He pointed out that decisions such as those interfered with the endeavours of his people to educate the French Canadian public, which was hostile to indigenous aspirations, about indigenous affairs.

110. An indigenous observer from Hawaii reported on the newly formed Hawaiian Broadcast Corporation, a Hawaiian controlled entity which reported on indigenous affairs.

111. An aboriginal observer from Australia described how journalists had portrayed the Native Title case. He said that the press was stirring up public hysteria and the idea that aboriginal peoples were going to "steal everyone's backyard" in the wake of the decision.

F. Right to maintain their political, economic and social systems and to develop their own strategies for development

112. Many indigenous peoples spoke of the poor social and economic conditions existing in their territories. They deplored the lack of basic health and education services, leading to high infant mortality, low life expectancy and high illiteracy rates. Others drew attention to the fact that unemployment rates were often far above the national average within indigenous communities. Some observers also addressed the discriminatory use of laws against members of the indigenous population resulting in a high percentage of indigenous among the prison population.

113. An observer for a non-governmental organization in Australia reported that owing to poor social and economic conditions the estimated average life expectancy of indigenous people was 39 years of age. An observer for a First Nation in Canada said that there were many unnecessary deaths among his people - the average age of death was 34 years - and cited statistics of 60-95 per cent unemployment, prostitution of six and seven-year-old native children and 58 per cent native persons among the inmates of one prison. An indigenous observer from South America pointed out how mass emigration from the indigenous communities to the urban centres because of the desolate economic and social conditions in their territories led to the disruption of traditional life.

114. Another problem of general concern to the indigenous observers was that the indigenous population is often unable to benefit from the overall economic development of the country. On the contrary, ill-conceived development projects often seriously affect their environment and traditional livelihood, leading to the impoverishment of indigenous communities. One observer pointed out that although his country was proud of its rapid growth in terms of gross national product, indigenous communities were still living in absolute poverty.

115. One observer alleged that development aid given by his country was at least partly used to support the militarization of an indigenous area in another country of the region. A number of observers for indigenous organizations underlined that development aid should take the interest of indigenous peoples into account. Governments and international development agencies should consult with the indigenous population concerned, in particular before carrying out large-scale development projects with great impact on the environment.

116. Various indigenous observers from Latin America stated that the privatization of State properties and services which was currently under way had adverse effects on the indigenous population. In many cases formerly State owned health, education and communications services were now run by profit-oriented private companies, which charged higher fees. This hit the indigenous peoples hard because they belonged to the poorer sectors of society.

117. One indigenous participant mentioned that his Government's development plan constituted a threat to his people. This plan comprised the construction of a geothermal power-plant in indigenous territory, as well as the conversion of traditional agricultural lands into areas for industrial purposes. He expressed the indigenous peoples' fear that they would be dispossessed and converted into cheap labourers for industrial companies.

118. One indigenous observer focused on the particular problems faced by indigenous women. The first Asian Indigenous Women's Conference, held in January 1993, had shown similar patterns of oppression throughout the region. In one country indigenous women often become prostitutes because they were either sold by their parents or tricked into it by promises of a better future. In other areas oppression of indigenous women took the form of rape and sexual harassment by military forces. In some countries tourism had been followed by sexual trafficking: young indigenous women were brought to the cities and forced to serve as prostitutes. On the other hand, health services for indigenous women were rarely available.

119. The observer for Australia recalled that last year the report of the Royal Commission into Aboriginal Deaths in Custody and the reaction of his Government to it was presented to the Working Group. He reported that his Government had committed additional funds over a five-year period to address the underlying causes of these deaths. The money would provide a means by which aboriginal and Torres Strait Islander peoples could acquire and develop land, address the problem of substance abuse, create greater opportunities for employment, education and training and support economic development.

120. The observer for Chile pointed out that there was a positive change in the attitude towards indigenous peoples. A special committee on indigenous peoples had recently been established and a law drafted on the protection and promotion of indigenous peoples' rights. This law would acknowledge the cultural and social specificity of indigenous peoples and would contain provisions for education in indigenous languages and would recognize custom as a source of law regarding rights over natural resources.

121. Another governmental observer reported that his Government had established a bureau for indigenous affairs which was entrusted with drawing up a plan for indigenous development, the particular focus of which would be the promotion of agricultural development. Reform of the agrarian law was under way, part of a broader agenda for protecting the country's biodiversity and maintaining indigenous land-management structures. His country was also about to ratify ILO Convention No. 169 of 1989.

122. According to an indigenous delegation, the authorities of their country had implemented a programme aimed at forcing them to follow the Government's economic policy. People were forced to practise sedentary agriculture, preferably lowland rice cultivation. They were also obliged to shift from a subsistence to a market-oriented economy.

G. Right to lands and territories

123. The observer for Brazil reported that a new partnership was developing between indigenous people and Brazilian society, as reflected by the extensive ongoing demarcation of indigenous land. Two hundred and seventy-two indigenous areas had already been demarcated, of which 199 had been ratified. Much remained to be done to accomplish the demarcation of all indigenous lands, and the difficulties faced by Brazil, such as lack of human and financial resources, had made the government seek international cooperation to that end. The deadline for finalizing the demarcation, which had been set for October 1993, might need to be reconsidered in context of the constitutional review process which was about to be started.

124. The same issue was addressed by an indigenous observer from Brazil who confirmed that the process of demarcation had begun in the territory of his people. He expressed concern that no legal settlement would be reached until October 1993. He reported on a huge military project which had seriously affected his people. As a first step a road had been built through the rain forest where his people lived. This gave gold miners easy access to his peoples' lands. As a result many people had died from the diseases brought in.

125. One indigenous observer reported that when his people tried to organize themselves in order to regain land which had been taken from them illegally, they had been charged with forming an unlawful association and been taken to court; 144 persons had been given prison sentences. Appeals had been made and were still pending.

126. An indigenous observer reported that in his country indigenous land rights were seriously curtailed because of a law stating that abandoned land became State property and could be sold. Often government authorities declared indigenous lands which were temporarily not used for agriculture to be abandoned, although it was well known that indigenous agriculture was based on a system in which fields after a period of use are left untilled in order to give the soil time to recover.

127. The observer for Australia reported on the Australian High Court's decision in the Native Title case, in which the High Court rejected once and for all the legal fiction of terra nullius, the notion that Australia

was land belonging to no one at the time of European settlement, in other words, a fiction which was used to dispossess the indigenous peoples of Australia of their lands. The decision had been recognized by the Government as one of great moral and ethical importance to the nation and had been welcomed by virtually all Australian churches and faiths.

128. That case was also referred to by various Aboriginal and Torres Strait Islander organizations, in particular the representative of the National Aboriginal and Legal Services Secretariat. All of them welcomed the decision but cautioned that the majority of Aboriginal Australians could not benefit directly from the decision and expressed their hope that the decision would be translated into legal action. A Torres Strait Islander observer emphasized the great importance of the relationship to the land and especially of water rights. He expressed the wish to see sea rights recognized in the same manner as land rights had been recognized. Concern was expressed by an indigenous observer that Aboriginal peoples in Australia were lacking information about the case.

129. The observer for New Zealand mentioned that one major development over the last year was the passage of an Act, based on the Treaty of Waitangi, which recognized that Maori land was a valued possession inherited from the past and passed to future generations. This Act would permit the reversal of the fragmentation of land that had historically hampered tribal economic development. Moreover, the Government had issued proposals to end the perpetual right of renewal of leased Maori land and to review the rents so that they reflected market rates.

130. The observer for Canada reported on the latest developments on aboriginal land claims. The observer explained how negotiations had taken place and how agreements concerning a considerable number of Aboriginal Nations had been concluded. He described the historic agreement between Canada and the aboriginal peoples of Nunavut. Two Acts passed by Parliament in the previous month would redraw the map of Canada by 1999 and provide for a new political and economic future for the residents of Nunavut. Title by the Inuit to 350,000 square kilometres of land would be recognized and a financial payment of over C$ 1 billion, over 14 years, would be made. Additionally, the agreement included wildlife harvesting rights, subsurface rights and participation on wildlife and other resource management boards within the territory.

H. Right to protection of the environment

131. The observer for Australia stated that his Government remained committed to the concern of indigenous peoples in the south of Australia who had lost their land as a result of nuclear testing carried out by the British Government during the 1950s and 1960s. The British Government had finally agreed to contribute funds to decontaminate the sites.

132. A number of indigenous observers voiced concern about dumping of nuclear waste in their areas. It was reported, for example, that Johnson Island, near Hawaii, was being used by the United States and European countries as a storage area for nuclear, radioactive and toxic waste. One observer drew attention to the fact that the Government of his country had established an

office of nuclear waste aimed at seeking waste sites on "state or Indian tribal lands". An indigenous observer from Alaska mentioned that mining industries, along with a nuclear power plant that had been built in the region, were threatening the health of his people.

133. The observer for the World Uranium Hearing Society stressed the direct link between the use of nuclear energy and the survival of indigenous peoples. Vast quantities of the world's uranium resources were located and extracted in the territories of indigenous peoples. These territories were often exploited for weapons testing and storage of dumping of nuclear substances. At the World Uranium Hearing in Salzburg, Austria, in September 1992, indigenous peoples had demanded that uranium and other radioactive minerals should remain in their natural location. The declaration adopted by the Hearing is contained in the addendum to the present report.

134. An indigenous observer pointed out that in his country, the Government's policy of locating polluting industries abroad did not only affect the lives of indigenous peoples living in his country, but also the lives of indigenous peoples in other parts of the world.

135. An indigenous observer noted the importance of clean air and water as a basis for the integral relationship between indigenous ways of life and the land. His people were facing the threat of a pulp mill and a project using the heavy-oil-stem-injection process. Both projects were diminishing the air and water quality in the area.

136. The observer for Canada mentioned the Arctic Environmental Strategy, a C$ 100 million programme designed to address the most urgent environmental problems facing the Arctic. The strategy had involved aboriginal organizations in all aspects of programme planning and delivery which was one of the main reasons for its success.

I. Cultural and intellectual property

137. A number of indigenous observers voiced concern about the fact that the knowledge indigenous peoples had gathered over centuries was being exploited by commercial companies for their own profit. One indigenous observer stated that although indigenous medicine was often portrayed as primitive or even dangerous, 7,000 natural compounds used in modern medicine had been utilized by indigenous healers for centuries. The annual market value of pharmaceutical products derived from medical plants discovered by indigenous peoples exceeded US$ 43 billion. He deplored the fact that pharmaceutical companies continued to patent products and reap huge profits from the commercial exploitation of traditional knowledge.

138. Two observers for indigenous groups referred to a plant called uña de gato (cat's nail) which had been used in the indigenous medicine in their region since time immemorial. They alleged that scientists of foreign companies had stolen the plant and the traditional knowledge associated with it and were trying to patent it. Moreover, the plant was facing extinction in their territories because of abusive extraction by traders. One observer suggested that the study dealing with indigenous cultural and intellectual property should incorporate the contents of the "Maatatua Declaration".

139. An indigenous observer expressed concern about the manufacture and distribution of an alcohol product exploiting the name of a revered chief and spiritual leader of a Native American Tribe of North America. He asserted that the use of the name was inappropriate and insulting and all the more outrageous since alcohol had exacted a terrible toll on indigenous peoples in the United States. They suffered the highest incidence of alcoholism of any racial group, the highest rate of foetal alcoholic syndrome and the highest death rate from alcohol-related syndromes.

J. Right to natural resources

140. One indigenous observer described the situation of his people who lived on the Pacific coast in an area of tropical rain forest with one of the richest biodiversities in the world. Development strategies financed by international development institutions had served mainly to provide infrastructure for the exploitation of his people's ancestral lands, through deforestation and gold-mining projects which had been carried out without consultation with the people concerned. He pointed out some of the adverse impacts these projects had on his people, who had been turned into wage-earners as environmental degradation caused by the exploitation of resources deprived them of their livelihood. Many native workers were forced to accept low-paying jobs in other areas, which led to the disruption of their indigenous communities.

141. The observer for New Zealand mentioned the Maori Fisheries Settlement of September 1992 which had resulted in the effective control by Maori of 40 per cent of the New Zealand commercial fishery resources in exchange for the withdrawal of all cases against the Crown relating to Maori fishery claims. Other indigenous observers complained about the procedure that led to the agreement and said that the Maori Fishery Settlement was not supported by many tribes.

142. An observer for an indigenous people living in Canada accused a pulp and paper company of dumping effluents into her people's traditional fishing waters and destroying the salmon fishing. This interference with the livelihood of the local indigenous population had been a direct breach of aboriginal fishing rights.

143. An indigenous observer stressed the importance of water rights. The Water Code of her country recognized indigenous water rights, but it was not sufficiently put into practice. Many indigenous farmers and homesteaders were without an adequate supply of water for traditional forms of subsistence agriculture, while resort developments and commercial enterprises such as golf courses, hotels and sugar cane fields used this precious resource.

K. Right to the observance of treaties and other legal arrangements

144. An indigenous representative voiced the fear that the possible secession of a part of the country in which his people's territories were living might split up their lands and might put treaty obligations into question.

145. An indigenous speaker underlined the continuing violation of treaties by legislation passed by the Government of Canada, as a result of which the Government was devolving unilaterally its fiduciary trust obligations to the provinces. However, he expressed the hope that as a result of pressure from the international community the Government would once again recognize the nation-to-nation treaty relationship established by their respective ancestors.

IV. STUDY OF TREATIES, AGREEMENTS AND OTHER CONSTRUCTIVE ARRANGEMENTS BETWEEN STATES AND INDIGENOUS PEOPLES

146. Mr. Miguel Alfonso Martínez, the Special Rapporteur of the Sub-Commission on treaties, agreements and other constructive arrangements between States and indigenous populations, gave the Working Group an introduction to the first progress report of his study (E/CN.4/Sub.2/1992/32) on 30 July 1993. He apologized to the Working Group for the fact that the report had not been available to the Group at its previous session. He recalled that he had given an oral presentation of his report at the 1992 session and mentioned that the English version of the text had been made available to the Sub-Commission at its forty-fourth session.

147. Good progress had been achieved in the research work since September 1991. However, the disappointingly small number of replies to the Special Rapporteur's questionnaire, especially from indigenous peoples, continued to hamper the progress of the study. He urged indigenous peoples and Governments to provide the necessary information as soon as possible.

148. The Special Rapporteur drew attention to the function of the progress report by referring to the list of purposes stated on page 8 of his report. He gave a short summary of the contents of each of the chapters of the report, which broadly reflected those purposes.

149. Chapter one focused on the research and other activities so far undertaken. Chapter two centred on some anthropological and historical considerations on key issues relevant to the study. The Special Rapporteur explained that he had given special emphasis to the ethnocentrism and in particular the eurocentrism prevailing in many analyses of treaty relationships between indigenous peoples and States. Moreover he had included case studies on recent decisions in which the interpretation of indigenous issues from the view-point of non-indigenous values was particularly obvious.

150. Chapter three on the first encounters between indigenous peoples and other civilizations, had led him to the first major conclusion, namely that in those first encounters, which took place during the sixteenth century, there had been a trend to treat indigenous peoples as subjects of international law. Subsequently, relations of nation States with indigenous peoples had been perceived as matters of purely internal jurisdiction.

151. Chapter four focused on the diverse juridical situations within the scope of the study. He had established a typology of five situations, a description of which was contained in the report of the tenth session of the Working Group (E/CN.4/Sub.2/1992/33). The analysis of the extensive material gathered showed that the policy of regulating the relationship between

indigenous peoples and States by means of international law had been widely followed by Britain and France, but less so by Spain and Portugal. In the case of Latin America it was only recently that he had received solid evidence suggesting the existence of at least some treaty relationships. The last chapter contained the conclusions and recommendations of the report. Concluding his presentation Mr. Alfonso Martínez invited the Working Group to make critical comments on his study to help him improve his work.

152. The Chairperson-Rapporteur congratulated Mr. Alfonso Martínez on his progress report and thanked him for his introductory statement. In the subsequent discussion indigenous representatives expressed their full support for the Special Rapporteur's work and highlighted the importance of the study, in particular in view of the fact that the treaty relationships between indigenous peoples and States had been misunderstood and misinterpreted so frequently.

153. Indigenous representatives emphasized that they were frequently confronted with government disregard of treaty obligations. Some representatives said that they were currently engaged in time-consuming law suits over treaty rights. They noted that national law was considered to be the exclusive source of law, thus leaving no place for indigenous law, and that government authorities and courts often perceived indigenous titles more as a hindrance to the settlement of disputes than as a source for their resolution.

154. Indigenous representatives stressed that the spiritual and non-written elements of treaties had great importance for indigenous peoples. One representative illustrated that point by describing how one of his elders had passed knowledge about treaties to him by using objects to explain the spirit in which a treaty was concluded: a bag made of deer skin, representing the idea of sharing; a sacred pipe, representing truth and strength; and sweet-grass, representing kindness. He reported that the elder had concluded by telling him that his people were kind people, willing to share their land, but that as a result they had little left now but truth and strength.

155. Other indigenous representatives expressed the view that the report in its present state did not focus enough on the situation in Latin America. In that context particular mention was made of the situation in Argentina, where an extensive body of treaties and agreements existed. They emphasized that they would like to see a more balanced approach towards the different regions of the world in a future report.

156. A representative of the Mikmaq Council suggested that the Special Rapporteur should look more closely into the role of the Holy See in the conclusion of treaties with indigenous peoples, because he felt that the Church had played an important role in treaty-making in the Americas, in particular during the sixteenth and seventeenth centuries. He also suggested that the work of the Special Rapporteur could be associated with the work of the International Law Commission, preferably through an exchange of views on the question of treaties between indigenous peoples and States. Lastly, he suggested that the United Nations should organize a seminar on the use of modern-day treaties for the furtherance of indigenous peoples' rights and that a register of treaties concerning indigenous peoples should be established.

157. The Special Rapporteur thanked the participants for their support of the study and their comments. He said that he could accommodate most of their concerns in his study and assured the Working Group that the study would be continued to its proper completion. Mr. Alfonso Martínez promised to submit his second progress report to the Working Group at its twelfth session.

V. STUDY ON THE CULTURAL AND INTELLECTUAL PROPERTY OF INDIGENOUS PEOPLES

158. For the consideration of item 7, Mr. Ribot Hatano chaired the meeting. In her opening statement on item 7, the Chairperson-Rapporteur recalled that she had been entrusted with the study on the cultural and intellectual property of indigenous peoples (E/CN.4/Sub.2/1993/28) by the Sub-Commission in its resolution 1991/31, endorsed by Commission on Human Rights resolution 1992/114.

159. She recalled that the 1981 UNESCO Conference of experts on ethnocide and ethnodevelopment held at San José de Costa Rica was the first recognition in the United Nations system of ethnocide or cultural genocide. That Conference had reaffirmed the right of indigenous peoples to preserve and develop their own cultural heritage. Since 1982, the Working Group on Indigenous Populations has been a unique forum in which indigenous peoples could express their own views on those issues.

160. The Special Rapporteur emphasized that the protection of cultural and intellectual property rights of indigenous peoples was closely connected with the realization of their most fundamental rights, such as their territorial rights, the right to self-determination, the right to preserve their traditions, knowledge and values, as well as to maintain their social organization and manage their environment and was thus essential for maintaining, developing and restoring indigenous societies.

161. Ms. Daes pointed out that the study on the intellectual and cultural property of indigenous peoples was the first formal step in responding to the concerns expressed by indigenous peoples in United Nations forums. She expressed her hope that it would provide a basis for standard setting and for the adoption of institutional measures to stop violations of the cultural and intellectual rights of indigenous peoples.

162. Closing her remarks, Ms. Daes thanked all those who had replied to her request and provided valuable information for her study. She expressed her special gratitude to UNESCO for its collaboration, and her wish that that agency would also benefit from the study.

163. Ms. Atoha Mead, of the National Maori Congress, reported on the outcome of the First International Conference on Cultural and Intellectual Property Rights of Indigenous Peoples, held at Whakatane, Aotearoa, New Zealand, from 12 to 18 June 1993, at which the Maatatua Declaration on Cultural and Intellectual Property Rights of Indigenous Peoples had been adopted. The report of the Conference was presented in three separate interventions, beginning and ending with a traditional "karakia" or blessing.

164. Ms. Mead provided an overview of the issues discussed at the Conference by 150 delegates from 14 countries. Representatives of the World Bank, UNDP, UNESCO, World Wild Life Fund and Greenpeace had also attended the Conference, together with representatives of museums, scientific and academic research institutions, and of two Governments. She referred to the problem of the non-recognition of indigenous knowledge as scientific or even a matter of social research, because of the dominating criterion that science dealt with the production of new, unknown knowledge, while indigenous knowledge was considered old. She regretted the use of indigenous proverbs and other aspects of indigenous cultural and intellectual property by Western scholars and even by international agencies like UNICEF as "public domain", using them most often without permission and out of context, without identifying and dating their authors, thus contributing to the exploitation of indigenous peoples and their knowledge. She recalled that indigenous peoples accorded to their members their rightful individual acknowledgement for every musical composition, proverb, carving, artwork, medicinal discovery, improved fishing or hunting technology and any activity which contributed to their heritage. For indigenous peoples, the name and rationale for each detailed piece contained within an artwork, the date and the occasion when it was first revealed to its author, were as significant as the work itself.

165. Ms. Mead called for the development of mechanisms for the international protection of indigenous peoples' cultural and intellectual rights, including the patenting of indigenous plant varieties and genetic research (be it on humans, flora or fauna), and taking into account the holistic view of life and the environment of indigenous peoples.

166. The objectives of the Human Genome Diversity Project (HUGO) were also discussed by the Conference and a recommendation was adopted urging the United Nations to call an immediate halt to the project until the moral and ethical standards had been discussed, understood and approved by the indigenous peoples concerned. She stressed that, at a time when poverty and pollution were affecting the vast majority of the world's indigenous peoples, that project, involving $US 35 million, was dangerous, frivolous and wasteful. She recalled that over 700 indigenous communities had been targeted by the Project for hair and tissue sampling.

167. Ms. Mead lastly referred to the Maatatua Declaration, asking it to be appended in its entirety to Ms. Daes' study on cultural and intellectual property of indigenous peoples. An international Maatatua Declaration Association had been established, managed exclusively by indigenous peoples, to promote the implementation of the recommendations of the Maatatua Declaration and to disseminate important and relevant information on cultural and intellectual property rights. Following this presentation, Mr. Joe Mason, Secretary of the Ngati Awa Trust Board and executive member of the Maatatua Confederation of Tribes, read out the Maatatua Declaration.

168. Finally, Mr. Evaristo Nugkuag Ikanan of the Coordinadora de Organizaciones Indígenas de la Cuenca Amazónica (COICA), expressed his absolute support of the Maatatua Declaration, in the drafting of which he had participated. He underlined that a great number of indigenous peoples and organizations supported the Declaration and the recommendation made by Ms. Mead that it be appended to Ms. Daes' study.

169. The observer for New Zealand thanked Ms. Daes for her work and expressed the appreciation of her Government to the Maatatua Declaration, which would be carefully studied. She also supported the proposal of annexing it to Ms. Daes' study.

170. The observer for Australia thanked Ms. Daes for her comprehensive study. It would be read with great interest. She explained that the current regime for the return and protection of cultural and intellectual property was not designed with indigenous peoples and their collective interests in mind, but with the intention of assisting States in the return of their property, or individuals in the protection of their intellectual rights. Those procedures also granted a limited time of protection of intellectual property rights. Despite those limitations, she said, there were steps which could be taken to address indigenous peoples' concerns, the first of which was the inclusion of relevant articles in the draft declaration on the rights of indigenous peoples. In addition, dialogue should be developed with UNESCO and other agencies to ensure protection of those rights.

171. Apart from the international protection of indigenous peoples' cultural and intellectual rights, intra-State measures could be adopted. The observer for Australia referred to schemes developed in consultation with indigenous peoples for the protection and preservation of their cultural property. That policy had recently been adopted in Australia, where Aboriginal and Torres Strait Island peoples and communities worked in collaboration with museums, helping them to allay fears that museums traditionally had regarding indigenous claims on objects belonging to their collections. There were even cases when aboriginal and islander communities requested museums to acquire indigenous objects. She also underlined the major educative role that museums can take working under these conditions. Regarding skeleton remains, the public exhibition of human remains had been proscribed by law since 1983 and the return of human remains to their living descendants for proper burial was being negotiated with Aboriginal and Torres Strait Islander organizations. Work was also being undertaken to document indigenous knowledge of environment, flora and fauna.

172. The observer for Finland expressed his appreciation of the study. It constituted the basis for drafting general principles and guidelines for the protection of indigenous peoples' rights. He announced his Government's intention of helping Ms. Daes by providing her with extra information on the Sami.

173. Dr. Jourdan, of the International Medical Forum for Human Rights, Health and Development, said that intellectual and cultural property rights should be attributed not only to individuals, but to peoples. She stressed that patent rights were issued to inventors, not to those who preserved traditional knowledge, and that there should be an inverse patent right to protect indigenous cultural and intellectual rights.

174. The observer for the Mikmaq Grand Council, referring to the commercialization of plants and traditional medicines, recommended that the United Nations establish a programme of technical cooperation to strengthen indigenous peoples' capacity to control research projects in their lands. He stressed the need for professional ethics in scientific research and

supported attaching the Maatatua Declaration as an annex to Ms. Daes' study. He underlined the need for the elaboration of relevant principles and guidelines, based on that study.

175. Mrs. Tangiora, of the Maori Women's Welfare League, also supported attaching the Maatatua Declaration as an annex to the study and regretted that the Kari-Oca Declaration of Indigenous Peoples on Environment and Development had not been taken into account in the study. She proposed the setting up of an international indigenous monitoring body to prevent such omissions.

176. In her concluding remarks on item 7, Ms. Daes thanked all the participants in the discussion for their suggestions and recommendations, announced that the Maatatua Declaration would be attached to her study and made it clear that some of the recommendations made had already been included in the study. She also stressed that her study would be continued, because there was a need to draft principles and guidelines useful to indigenous peoples, Governments, and non-governmental organizations concerned.

VI. INTERNATIONAL YEAR OF THE WORLD'S INDIGENOUS PEOPLE

177. In introducing agenda item 8, the Chairperson-Rapporteur noted the low participation of indigenous peoples and Governments at the Technical Meeting for the International Year, held from 14 to 16 July 1993. She pointed out that the Year so far was the poorest and smallest event of its kind in the history of the United Nations. But there was still time to make something more lasting and meaningful out of the International Year.

178. Ms. Galvis, the observer for Colombia and Chairperson of the three Technical Meetings held for the International Year, reported that the Year so far had not fulfilled all the expectations. Nevertheless, she assumed that the International Year had served one of its main goals, namely to raise awareness of the needs of indigenous peoples throughout the world She pointed out the low participation by all parties in planning for the Year, poor dissemination of information about the Year in some sectors and lack of contributions to the Voluntary Fund for the International Year. She reported that there had been very poor participation, by all parties, in the three Technical Meetings. There was still much that could be done to disseminate information about the Year more widely. The Year had been well publicized in some sectors, badly in others, and some sectors had no information at all. She stressed that indigenous communities should receive more information to be able to elaborate their own programmes.

179. The first six months of the Year had been disappointing with regard to the number and scope of activities carried out by the United Nations system. An important factor hampering its success was the lack of resources available in the Voluntary Fund. Contributions were slow in coming in. She therefore appealed to all Governments and specialized agencies to contribute to the Fund.

180. Mr. Alfonso Martínez stressed the need to take into account the difficulties encountered during the International Year in order to attempt to avoid similar difficulties that might occur if and when the General Assembly decided to launch the proposed decade on indigenous rights.

181. The observer for the Nordic Council of Ministers reported on the Council's special contributions to the International Year, such as the organization of a meeting of Sami parliaments, the support of the second Arctic Leaders' Summit, the organization of a seminar by the Danish Secretariat for the International Year, substantial support of an indigenous cultural festival, and activities in the field of education and research cooperation.

182. The observer for the International Labour Office (ILO) reported on current ILO activities regarding indigenous peoples. One of them was the assistance to Governments in devising effective measures for the implementation of the International Year. Other specific activities were aimed at making the Year's objectives better known through publications (posters, books), discussions about resource management issues and consultations. She said that the International Year provided a framework for the International Labour Office to promote Convention No 169, which had already been ratified by Bolivia, Colombia, Costa Rica, Norway and Mexico. The Governments of Argentina, Fiji and Paraguay had recently indicated that they were considering ratifying the Convention. Sri Lanka had requested assistance to brief the National Committee for the World's Indigenous Peoples about the Convention and its implications. Moreover, the first reports, of Norway and Mexico, had been examined by the Committee of Experts at its March 1993 session. A workshop for indigenous leaders and representatives of non-governmental organizations on Convention No. 169 had taken place in the Philippines in March 1993. National consultations with governmental authorities with a view to designing country strategies and pilot projects for indigenous peoples had also been held.

183. Representatives of indigenous organizations described their efforts to promote the Year by means of posters, brochures, stamps, study sessions, television programmes and translations of United Nations documents into indigenous languages, but criticized their respective Governments' lack of commitment in supporting their activities or carrying out campaigns.

VII. WORLD CONFERENCE ON HUMAN RIGHTS

184. Introducing agenda item 9, the Chairperson-Rapporteur, noted that many indigenous representatives had participated in the World Conference on Human Rights, held at Vienna in June 1993. It had been a unique opportunity for them to make contact with other indigenous peoples and to present their views and concerns to the international community. She recalled that one meeting of the World Conference on 18 June 1993, had been dedicated to the commemoration of the International Year of the World's Indigenous People. During that meeting indigenous representatives had had the opportunity of addressing the plenary.

185. The Chairperson-Rapporteur drew attention to the fact that the final document of the World Conference recognized the dignity and the human rights of indigenous peoples. Moreover Part II of the Vienna Declaration and Programme of Action (A/CONF.157/23) included some very important recommendations: in paragraph 28 the World Conference called on the Working Group on Indigenous Populations to complete the work on the draft declaration at its eleventh session; in paragraph 31 it urged States to ensure the full

and free participation of indigenous people in all aspects of society, in particular in matters of concern to them; in paragraph 32 it recommended that the General Assembly proclaim an international decade of the world's indigenous people, to begin from January 1994.

186. A representative of an indigenous organization commented on the Vienna Declaration. He criticized the fact that the Vienna Declaration used the term indigenous "people" instead of "peoples", despite all the efforts made by the Chairperson-Rapporteur of the Working Group to support the term "peoples". Nevertheless, he expressed support for the recommendation contained in Part II, paragraph 30, of the Vienna Declaration that additional human and financial resources be made available to the Centre for Human Rights. He also expressed support for the recommendations contained in paragraphs 31 and 32 of the Declaration.

VIII. FUTURE ROLE OF THE WORKING GROUP

187. Item 10 on the future role of the Working Group was discussed at the 16th meeting of the Working Group on 30 July 1993. Introducing the item the Chairperson-Rapporteur said that it was the first time the future role of the Working Group has been a separate item on the agenda. She presented her note on the subject (E/CN.4/Sub.2/AC.4/1993/8), pointing out that there was no threat of dissolving the Working Group upon completion of the drafting of the declaration. On the contrary, there were reasons to believe that its role and the competence would be strengthened.

188. Mr. Alfonso Martínez said that there was no need for concern about a so-called "need" to "review" the mandate of the Working Group, as might be construed from a superficial reading of paragraph II.28 of the Vienna Declaration of the World Conference on Human Rights. In establishing the Working Group in 1982, the Economic and Social Council had not fixed a time-limit for its work. There was thus no need for the Commission on Human Rights to take any action to "renew" a mandate which, by definition, would expire neither in 1994 nor in the future (unless the Commission explicitly decided to abolish the Group). With respect to the "updating" of the Working Group, he considered that that exercise, whenever it should be considered necessary, should start from the basis of maintaining standard setting in that field (obviously not exhausted with the drafting of a declaration on the rights of indigenous peoples) - and the review of developments pertaining to the promotion and protection of human rights and fundamental freedoms of indigenous peoples. No monitoring activities should be granted to the Working Group since there existed a number of United Nations bodies that could undertake that type of activity.

189. A governmental observer said that the point of departure should be the Vienna Declaration and Programme of Action, in which the World Conference recommended that the Commission on Human Rights consider the renewal and updating of the Working Group's mandate, that the General Assembly proclaim a decade of indigenous people and that the establishment of a permanent forum of indigenous people be considered.

190. In the subsequent discussion, the idea of a permanent forum within the United Nations for the consideration of indigenous peoples' issues was

supported by a large number of participants, representatives of indigenous organizations as well as of several Governments. Indigenous participants emphasized that not only non-governmental organizations with consultative status with the Economic and Social Council but all indigenous peoples' organizations should have access to such a future forum. Moreover, it was suggested that more countries should include indigenous representatives in their government delegations. For some participants it was not clear whether a future permanent forum should be established in addition to the Working Group or whether the Working Group itself could be transformed into such a permanent forum. However, the usefulness of creating a permanent forum for indigenous issues was not questioned. That forum would deal with a range of problems and could also give advice to Governments.

191. Moreover, it was discussed whether a permanent forum should be composed of both representatives of Governments and of indigenous peoples, or if it should be a United Nations council of indigenous peoples, open only to indigenous peoples, under the direction of a special representative of the Secretary-General. That second option was advocated by a number of Maori tribes and by the Mikmaq Council. In their joint statement they expressed the view that the indigenous peoples' council should choose its own officers, and report, through its chairperson, to the Economic and Social Council and the General Assembly. The Council should have the mandate to coordinate and evaluate all United Nations activities that affected indigenous peoples and to report on and respond to the situation of indigenous peoples in all countries. Other indigenous representatives suggested that a special rapporteur on questions concerning indigenous peoples should be appointed.

192. The observer for Brazil expressed the opinion that the Working Group should maintain its subordination to the Sub-Commission and its format as a body of experts. Furthermore, his Government would prefer the present name of the Working Group to be maintained.

193. The observer for New Zealand and other participants pointed out the need to make increased resources, both human and financial, available to the Centre for Human Rights for work on indigenous issues. The observer for New Zealand expressed the importance of a permanent forum within the United Nations in which indigenous peoples could discuss questions affecting them, and also expressed support for the proclaiming of a decade of indigenous peoples which could build on what has been achieved during the International Year. The voice of indigenous peoples should also be heard within the specialized agencies of the United Nations, so that programmes could be developed across the range of activities that affected indigenous peoples, in partnership with them. The concept of a focal point within each agency deserved further consideration. Another representative emphasized that the widest possible participation of indigenous non-governmental organizations in United Nations forums should be promoted.

194. The observer for Canada indicated that his Government would endorse the broadening of the Working Group's mandate, once the draft declaration had been finalized and scrutinized by all parties. He suggested that the Working Group could act in an advisory capacity with its parent bodies when they discussed the draft declaration. He also highlighted the need

for an increase in the budget allocated to the Centre for Human Rights, part of which his Government would like to see earmarked for the Working Group.

195. An indigenous representative suggested that in order to give greater emphasis to the Asian region, where two thirds of the world's indigenous peoples lived, the next meeting of the Working Group should take place in Asia. In general, the representative stressed, meetings of the Working Group should be held in areas where indigenous peoples lived.

IX. OTHER MATTERS

Meetings and seminars

196. The Chairperson-Rapporteur referred to the World Conference on Human Rights and in particular to the agenda item entitled, "Commemoration of the International Year of the World's Indigenous People", on which 12 leaders of indigenous peoples had addressed the plenary. In that connection, she recalled the commemorative meeting of the General Assembly on 10 December 1992 when the International Year had been inaugurated and the special commemorative agenda item discussed by the Commission on Human Rights on 17 February 1993.

197. She noted that the United Nations, in its activities related to the International Year, was planning a consultation of indigenous peoples of the Arctic region. That consultation, co-sponsored by the Centre for Human Rights and the International Labour Office, would take place from 6 to 10 September 1993 in Khabarovsk, Siberia.

198. A representative of the World Council of Churches stressed the importance of consultations and seminars. Emphasizing the role of indigenous women, she referred to the global gathering her organization had organized in October 1992 in Trinidad and Tobago, attended by 80 women from around the globe. A new network of information and cooperation had emerged from that symposium. She also mentioned the recent Ecumenical Global Gathering of Youth and Students that had taken place in Brazil and had included visits to indigenous communities. The World Council of Churches would hold a small consultation of indigenous peoples in Canada early in 1994 to consider the dynamics of self-determination. It would be organized with the collaboration of the Aboriginal Rights Coalition of the Churches.

Voluntary Fund

199. The Chairperson-Rapporteur recalled that over 40 indigenous participants had been invited to attend the current session of the Working Group thanks to the generous support of numerous Governments, including those of Australia, Canada, Denmark, Greece, Japan, the Netherlands, New Zealand, Norway and Sweden, which contributed to the Voluntary Fund.

200. Mr. Alfonso Martínez paid tribute to the Board of Trustees of the Voluntary Fund. Referring to the renewal of the members of the Board at the end of the year, he said that the tradition of having one member of the Working Group on the Board of Trustees should be continued.

201. The representative of the World Council of Churches drew attention to the fact that her organization continued to offer financial support to indigenous peoples through grants of money, both from the World Council of Churches' Special Fund to Combat Racism and from the programme funds it received from member churches and other donors.

202. The representative of the Indigenous Peoples Centre for Documentation, Research and Information (DOCIP) described the role her organization played in fund raising for indigenous peoples. However, she expressed her disappointment that some indigenous delegations had received their air-tickets too late to be present at the beginning of the Working Group session.

Other matters

203. At its 11th meeting Mr. Desai, Under-Secretary-General for Policy Coordination and Sustainable Development, addressed the Working Group and spoke about the role and mandate of his Department, in particular with regard to indigenous peoples.

204. He emphasized the important contribution made by indigenous peoples to the preparation of the United Nations Conference on Environment and Development, held in 1992 in Rio de Janeiro, Brazil. He thanked them for their goodwill and cooperation during the preparatory process and the Conference itself. He stressed that the Rio Conference had tried to reconsider development in order to make it more apt to meet the needs of people. Thus, it had not only been a conference about the relationship between development and environment but very much a conference about people, aimed at combining concern for resources with concern for people. The Under-Secretary General emphasized that in that context indigenous people had always served as a model of how both concerns could be combined, and that the Rio Declaration took account of that fact by recognizing the role of indigenous peoples in numerous articles.

205. He pointed out that one of the successes of the Rio Conference has been to involve numerous groups in the discussion on environment and development, such as non-governmental organizations, indigenous peoples' organizations and groups of professionals and scientists. He explained that his Department served, among its other functions, as the secretariat of the newly formed Commission on Sustainable Development, whose primary task was to bring about a shift from policy-making to policy implementation and to ensure that Governments translate the commitments made at Rio into action. In the framework of the follow-up to the Rio Conference, his Department was also responsible for the preparation of the Summit on Social Development. It would serve as a focal point for interaction with Governments and the non-governmental sector.

206. In conclusion, the Under-Secretary General emphasized that it was of the greatest importance to him that the dialogue and partnership which had begun during the preparation of the Rio Conference, in particular the partnership with the indigenous peoples be maintained and enhanced in the future.

207. The representative of the World Council of Churches expressed the Council's interest in implementing projects for indigenous peoples, and

announced that it was in the process of appointing an indigenous consultant whose task, apart from relating to the networks of indigenous peoples around the world, would consist in helping to formulate changes in the structure of the World Council of Churches in order to achieve greater harmony with the aspirations and expectations of indigenous peoples.

208. The representative of the Indigenous Centre for Documentation, Research and Information (DOCIP) reaffirmed its commitment to indigenous peoples issues and gave a brief overview of the technical and other services which, with the help of volunteers, it was providing for indigenous representatives during the eleventh session of the Working Group.

X. CONCLUSIONS AND RECOMMENDATIONS

A. Standard-setting activities

209. The Working Group made every effort and completed its work on the draft declaration on rights of indigenous peoples at its eleventh session, mindful of the relevant requests and recommendations made by the Sub-Commission (resolution 1992/33), the Commission on Human Rights (resolution 1993/31), the General Assembly (resolution 47/75) and, in particular, by the World Conference on Human Rights (A/CONF.157/23, part II, para. 28). Based upon the revised working paper by the Chairperson-Rapporteur (E/CN.4/Sub.2/1993/26) and the relevant explanatory note (E/CN.4/Sub.2/1993/26/Add.1), submitted pursuant in particular to the above-mentioned Commission on Human Rights resolution, the members of the Working Group proposed further revisions to the text contained in document E/CN.4/Sub.2/AC.4/1993/CRP.4. They were given a second reading and all delegations participated actively in the discussions. After careful consideration of the comments, proposals and amendments, the Working Group agreed on a final text of the draft declaration (annexed to its present report) and decided to submit it to the Sub-Commission at its forty-fifth session.

210. In that respect the Working Group recommends to the Sub-Commission: 1/

(a) To consider the draft declaration as contained in the annex of the present report at its forty-sixth session in 1994 in order to ensure that members of the Sub-Commission have sufficient time to study the text;

(b) To request the Secretary-General to send the draft declaration to the editorial and translation services of the United Nations as soon as possible;

1/ (a) Ms. Attah stressed the need for the draft declaration to be adopted by the Sub-Commission in 1993, because that was the concern of the indigenous peoples.

(b) These recommendations represent a compromise achieved after long consultations between the members of the Working Group. The individual opinions of three of its members (Mr. Alfonso Martínez, Mr. Boutkevitch and Mr. Hatano) are reflected in annex II to the present report.

(c) To request the Secretary-General to circulate the text to indigenous peoples, Governments and intergovernmental and non-governmental organizations, making special reference to the fact that no further discussion of the text would take place in the Working Group;

(d) To recommend to the Commission on Human Rights and the Economic and Social Council to take special measures so that indigenous peoples be enabled to participate fully and effectively without regard to either consultative status, in the consideration of the draft declaration by the Sub-Commission and other higher United Nations bodies as they have thus far contributed to the work of the Working Group; and

(e) To submit the draft declaration to the Commission on Human Rights for consideration at its fifty-first session in 1995.

B. Review of developments

211. The Working Group welcomed the continuation and intensification of the constructive dialogue which had been developing at the sessions between representatives of the indigenous peoples, the members of the Working Group and observer Governments. The Working Group reiterated its conviction that such a constructive dialogue, conducted in an atmosphere of good faith, good will and confidence, could help strengthen ongoing United Nations efforts concerning all aspects of the recognition, promotion, protection and restoration of the rights of indigenous peoples. The Working Group also expressed its appreciation for the efforts made by indigenous peoples and Governments towards the equitable and peaceful resolution of disputes, and the negotiation of new political arrangements for sharing power and responsibility at the national level.

212. In view of the great richness and importance of the information provided to the Working Group by representatives of indigenous peoples and Governments and the potential value of stimulating a wider, year-round exchange of views, the Working Group renewed its recommendation to the Sub-Commission and the Commission on Human Rights that its annual report should be made more widely available by reprinting it as a United Nations sales publication.

213. The Working Group reaffirmed its belief that the effectiveness of its work would be greatly enhanced by convening some of its future sessions in other regions, in particular in Latin America, Asia and the Pacific, and noted that this could be included in the programme of action for the proposed decade for the world's indigenous peoples.

214. The Working Group took note of paragraph 5 of General Assembly resolution 47/75 concerning the need for improved collection and dissemination of socio-economic data on indigenous peoples, and in this regard renewed its recommendation that the United Nations should prepare an annual report on the state of the world's indigenous peoples in collaboration with indigenous peoples and relevant United Nations bodies and specialized agencies. Mindful also of the upcoming World Social Summit, the Working Group recommends to the Sub-Commission and the Commission that they submit this proposal to the Economic and Social Council as a matter of priority.

C. Seminars and meetings

215. The Working Group commended indigenous peoples' organizations for their continuing efforts to exchange information and experiences among themselves at the regional and international levels, through meetings and conferences on topics of particular concern to them. In particular, the Working Group warmly welcomed the convening of the Second World Indigenous Youth Conference at Darwin, Australia, in July 1993. It also welcomed the holding in New Zealand of the International Indigenous Spiritual Elders and Peoples Conference in February 1993 and the Conference on Cultural and Intellectual Property Rights of Indigenous Peoples in June 1993.

216. The Working Group noted the success of the three previous expert meetings on racism (Geneva 1989), self-government (Greenland, 1991) and sustainable development (Chile, 1992) and recommended once again the implementation of the relevant recommendations adopted at those meetings.

217. The Working Group encouraged the implementation of chapter 26 of Agenda 21 (A/CONF.151/26, vol. III), adopted by the United Nations Conference on Environment and Development, which calls upon United Nations operational programmes and specialized agencies to support projects of technical cooperation and exchanges of information among indigenous peoples. The Working Group expressed appreciation to the Under-Secretary-General for Policy Coordination and Sustainable Development, Mr. Nitin Desai, for his participation at its eleventh session and appealed to him to take immediate steps to implement the provisions of chapter 26 as well as Economic and Social Council decision 1992/255.

218. The Working Group welcomed the relevant recommendations contained in the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights, in particular its recommendations for the proclaiming of a United Nations decade of indigenous peoples, creating a permanent United Nations forum for indigenous peoples and providing advisory services in the field of human rights for indigenous peoples.

219. In this regard, the Working Group reiterated its recommendation that the programme of advisory services in the field of human rights, as well as other relevant United Nations programmes of technical assistance, should provide information and training directly to indigenous organizations and communities. The Working Group appealed once again to Governments and non-governmental organizations to consider making special contributions to the Voluntary Fund for Technical Cooperation in the Field of Human Rights to support, in particular, projects of direct benefit to indigenous peoples, and recommended that regional training courses for indigenous peoples be organized as soon as possible in all regions.

220. The Working Group also reiterated its recommendation that future United Nations seminars and expert meetings on indigenous issues continue to be convened in regions and countries with the greatest numbers of indigenous people, and that they continue to involve experts nominated by indigenous peoples as well as experts nominated by Governments and the United Nations.

221. The Working Group recommended that the United Nations organize a seminar on modern-day treaties and agreements with indigenous peoples to facilitate an exchange of views between governmental and indigenous experts in countries in which such treaties and agreements have been made and countries in which they may be useful in the future as one means of giving effect to the rights of indigenous peoples.

222. The Working Group further recommended the holding of a seminar on indigenous land rights and claims in which indigenous, governmental and United Nations experts will participate with a particular view to discussing obstacles and problems related to these issues and to analysing and evaluating innovative legal procedures and recent court decisions, as well as positive measures taken by States in this area.

D. Studies and reports

223. The Working Group welcomed the third and final substantive report of the United Nations Centre on Transnational Corporations and expressed its regret at the discontinuation of these valuable annual reports which has resulted from the continued reorganization of the United Nations Secretariat. The Working Group urged the Secretary-General to publish a consolidated version of these reports as a sales publication to ensure their wider distribution, and appeals to the Secretary-General to find alternative arrangements in the United Nations system for the renewal of that important study.

224. The Working Group again expressed its deep appreciation to the Special Rapporteur, Mr. Miguel Alfonso Martínez, for his progress report on the study of treaties, agreements and other constructive arrangements between States and indigenous peoples (E/CN.4/Sub.2/1992/32), which was discussed at its eleventh session. The Working Group placed on record its gratitude to the Governments and indigenous peoples that responded to the questionnaire contained in the report on its ninth session, and requested that the Special Rapporteur be provided with all the assistance he needs for the further elaboration of his important study. It also noted with interest the suggestions made by indigenous peoples to strengthen the study including, inter alia, the creation of a central depository or registry of indigenous treaties, and invited the Special Rapporteur to pursue those ideas further.

225. The Working Group also expressed its deep appreciation to its Chairperson-Rapporteur and Special Rapporteur of the Sub-Commission, Ms. Erica-Irene A. Daes, for her report on the protection of the cultural and intellectual property of indigenous peoples (E/CN.4/Sub.2/1993/28), and decided to recommend that the report be expanded and updated with a view to its publication as a sales item in 1994. The Working Group also decided to recommend that the Special Rapporteur be authorized by the Economic and Social Council to convene a workshop with relevant professional, academic and scientific experts and indigenous peoples to promote a practical dialogue on the implementation of the recommendations contained in her report, and that suitable resources be provided for this purpose. The Working Group appealed to UNESCO to contribute to that activity as far as possible.

226. In the light of the conclusions and recommendations contained in the report of the Special Rapporteur, the Working Group decided once again to urge

the United Nations Development Programme and other competent United Nations bodies and specialized agencies to give high priority to projects aimed at strengthening indigenous peoples' own capacity to conduct ecological, medical and related research and for improving their control over research conducted in their land and territories. The Working Group also decided to discuss these issues at its twelfth session, in particular the question of adopting relevant principles and guidelines, and to consider the possibility of elaborating new legal instruments for the protection of the cultural and intellectual property of indigenous peoples.

E. International Year of the World's Indigenous People

227. The Working Group welcomed General Assembly resolution 47/75. The Working Group re-emphasized the fundamental importance of full participation by indigenous peoples in every aspect of decision-making concerning the Year at the national, regional and international levels. The Working Group authorized its Chairperson-Rapporteur to represent it at the closing ceremonies, to take place at the General Assembly during its forty-eighth session.

228. The Working Group warmly endorsed the recommendations made by the third and final Technical Meeting on the International Year and expressed its thanks to the Chairperson-Rapporteur. The Working Group again reaffirmed the importance it attached to the evaluation of the International Year, in particular by the Secretary-General as provided in General Assembly resolutions 46/128 and 47/75, and emphasized the fundamental importance of full participation of indigenous peoples, as well as the expert members of the Working Group, in the evaluation process.

F. Other matters

229. The Working Group expressed its great satisfaction at the large participation of indigenous youth in the World Conference on Human Rights and again encourages the International Labour Organisation, the United Nations Children's Fund, the United Nations Educational, Scientific and Cultural Organization and other relevant organizations of the United Nations system to consider ways of strengthening the role of indigenous youth in world affairs. In particular, the Working Group decided within its existing mandate to include in its reports a systematic analysis of trends in the legal status and conditions of indigenous peoples around the world and to develop a dialogue between indigenous peoples and United Nations operational programmes and agencies in accordance with the theme of "a new partnership".

230. The Working Group urged the United Nations University to establish affiliations and exchange programmes with indigenous educational and scientific institutions, and recommended that United Nations schools invite indigenous youth to participate in their regular teaching programmes, as guest instructors, to help build linkages with non-indigenous youth in all countries.

231. The Working Group expressed its deep gratitude to Governments, indigenous peoples, individuals and non-governmental organizations for contributions made to the United Nations Voluntary Fund for Indigenous Populations. In the light

of the pressing need to ensure the greatest possible indigenous participation in the final adoption of the declaration on the rights of indigenous peoples by the Sub-Commission and the Commission, the Working Group appealed for continued and increased contributions to the Fund. The Working Group also recommends that the Fund be duly authorized to facilitate indigenous participation in other relevant United Nations meetings, such as the Commission on Human Rights, the meetings of human rights treaty bodies and the Commission on Sustainable Development.

232. The Working Group welcomed the expanded coverage of its eleventh session provided by the Geneva Press Unit of the Department of Public Information and expressed its deep appreciation to its Director, Ms. T. Gastaud, for her personal concern, and requested that full coverage of its deliberations should continue. The Working Group once again urges DPI to make every effort to develop a more comprehensive programme of translating and publishing basic human rights instruments, including the declaration on the rights of indigenous peoples, into indigenous languages. The Working Group is firmly committed to the principle that indigenous peoples have the right to learn and teach their rights in their own languages.

233. The Working Group appealed to the Secretary-General to increase the number of Professional staff members currently assigned to support its work, and recommends the establishment of an independent office or unit for indigenous peoples, with adequate resources and indigenous staff, to provide continuous liaison between indigenous peoples, around the world and all relevant United Nations programmes and agencies. In addition, the Working Group recommended that the Goodwill Ambassador for the International Year, Mrs. Rigoberta Menchú Tum, should be attached to that new office, if she so wished, as a Permanent Representative of the Secretary-General, with a strengthened substantive mandate and role.

234. The Working Group expressed its deep appreciation to the three indigenous associate experts, Ms. Helen McLaughlin, Ms. Anne-Mai W. Teigmo and Mr. Hjalmar Dahl.

235. The Working Group decided to consider the questions "Standard-setting activities", "Review of developments pertaining to the promotion and protection of human rights and fundamental freedoms of indigenous populations", "Treaties and agreements with indigenous peoples", "Cultural and intellectual property of indigenous peoples", "International decade of the world's indigenous peoples" and "United Nations operational activities and indigenous peoples" as separate items on the agenda of its twelfth session.

236. The Working Group reiterated its request concerning the preparation of an annotated agenda for its future sessions.

237. The Working Group recommended that the future role of the Working Group should be considered at its twelfth session and requests its member Mr. Alfonso Martínez to update and supplement the relevant Note (E/CN.4/Sub.2/AC.4/1993/8) by the present Chairperson-Rapporteur, which, because of lack of time, was not thoroughly considered at the eleventh session of the Working Group.

Annex I

DRAFT DECLARATION AS AGREED UPON BY THE MEMBERS OF THE WORKING GROUP AT ITS ELEVENTH SESSION

Affirming that indigenous peoples are equal in dignity and rights to all other peoples, while recognizing the right of all peoples to be different, to consider themselves different, and to be respected as such,

Affirming also that all peoples contribute to the diversity and richness of civilizations and cultures, which constitute the common heritage of humankind,

Affirming further that all doctrines, policies and practices based on or advocating superiority of peoples or individuals on the basis of national origin, racial, religious, ethnic or cultural differences are racist, scientifically false, legally invalid, morally condemnable and socially unjust,

Reaffirming also that indigenous peoples, in the exercise of their rights, should be free from discrimination of any kind,

Concerned that indigenous peoples have been deprived of their human rights and fundamental freedoms, resulting, inter alia, in their colonization and dispossession of their lands, territories and resources, thus preventing them from exercising, in particular, their right to development in accordance with their own needs and interests,

Recognizing the urgent need to respect and promote the inherent rights and characteristics of indigenous peoples, especially their rights to their lands, territories and resources, which derive from their political, economic and social structures and from their cultures, spiritual traditions, histories and philosophies,

Welcoming the fact that indigenous peoples are organizing themselves for political, economic, social and cultural enhancement and in order to bring an end to all forms of discrimination and oppression wherever they occur,

Convinced that control by indigenous peoples over developments affecting them and their lands, territories and resources will enable them to maintain and strengthen their institutions, cultures and traditions, and to promote their development in accordance with their aspirations and needs,

Recognizing also that respect for indigenous knowledge, cultures and traditional practices contributes to sustainable and equitable development and proper management of the environment,

Emphasizing the need for demilitarization of the lands and territories of indigenous peoples, which will contribute to peace, economic and social progress and development, understanding and friendly relations among nations and peoples of the world,

Recognizing in particular the right of indigenous families and communities to retain shared responsibility for the upbringing, training, education and well-being of their children,

Recognizing also that indigenous peoples have the right freely to determine their relationships with States in a spirit of coexistence, mutual benefit and full respect,

Considering that treaties, agreements and other arrangements between States and indigenous peoples are properly matters of international concern and responsibility,

Acknowledging that the Charter of the United Nations, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights affirm the fundamental importance of the right of self-determination of all peoples, by virtue of which they freely determine their political status and freely pursue their economic, social and cultural development,

Bearing in mind that nothing in this Declaration may be used to deny any peoples their right of self-determination,

Encouraging States to comply with and effectively implement all international instruments, in particular those related to human rights, as they apply to indigenous peoples, in consultation and cooperation with the peoples concerned,

Emphasizing that the United Nations has an important and continuing role to play in promoting and protecting the rights of indigenous peoples,

Believing that this Declaration is a further important step forward for the recognition, promotion and protection of the rights and freedoms of indigenous peoples and in the development of relevant activities of the United Nations system in this field,

Solemnly proclaims the following United Nations Declaration on the Rights of Indigenous Peoples:

PART I

Article 1

Indigenous peoples have the right to the full and effective enjoyment of all human rights and fundamental freedoms recognized in the Charter of the United Nations, the Universal Declaration of Human Rights and international human rights law.

Article 2

Indigenous individuals and peoples are free and equal to all other individuals and peoples in dignity and rights, and have the right to be free from any kind of adverse discrimination, in particular that based on their indigenous origin or identity.

Article 3

Indigenous peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

Article 4

Indigenous peoples have the right to maintain and strengthen their distinct political, economic, social and cultural characteristics, as well as their legal systems, while retaining their rights to participate fully, if they so choose, in the political, economic, social and cultural life of the State.

Article 5

Every indigenous individual has the right to a nationality.

PART II

Article 6

Indigenous peoples have the collective right to live in freedom, peace and security as distinct peoples and to full guarantees against genocide or any other act of violence, including the removal of indigenous children from their families and communities under any pretext.

In addition, they have the individual rights to life, physical and mental integrity, liberty and security of person.

Article 7

Indigenous peoples have the collective and individual right not to be subjected to ethnocide and cultural genocide, including prevention of and redress for:

(a) Any action which has the aim or effect of depriving them of their integrity as distinct peoples, or of their cultural values or ethnic identities;

(b) Any action which has the aim or effect of dispossessing them of their lands, territories or resources;

(c) Any form of population transfer which has the aim or effect of violating or undermining any of their rights;

(d) Any form of assimilation or integration by other cultures or ways of life imposed on them by legislative, administrative or other measures;

(e) Any form of propaganda directed against them.

Article 8

Indigenous peoples have the collective and individual right to maintain and develop their distinct identities and characteristics, including the right to identify themselves as indigenous and to be recognized as such.

Article 9

Indigenous peoples and individuals have the right to belong to an indigenous community or nation, in accordance with the traditions and customs of the community or nation concerned. No disadvantage of any kind may arise from the exercise of such a right.

Article 10

Indigenous peoples shall not be forcibly removed from their lands or territories. No relocation shall take place without the free and informed consent of the indigenous peoples concerned and after agreement on just and fair compensation and, where possible, with the option of return.

Article 11

Indigenous peoples have the right to special protection and security in periods of armed conflict.

States shall observe international standards, in particular the Fourth Geneva Convention of 1949, for the protection of civilian populations in circumstances of emergency and armed conflict, and shall not:

(a) Recruit indigenous individuals against their will into the armed forces and, in particular, for use against other indigenous peoples;

(b) Recruit indigenous children into the armed forces under any circumstances;

(c) Force indigenous individuals to abandon their lands, territories or means of subsistence, or relocate them in special centres for military purposes;

(d) Force indigenous individuals to work for military purposes under any discriminatory conditions.

PART III

Article 12

Indigenous peoples have the right to practise and revitalize their cultural traditions and customs. This includes the right to maintain, protect and develop the past, present and future manifestations of their cultures, such as archaeological and historical sites, artifacts, designs, ceremonies, technologies and visual and performing arts and literature, as well as the right to the restitution of cultural,

intellectual, religious and spiritual property taken without their free and informed consent or in violation of their laws, traditions and customs.

Article 13

Indigenous peoples have the right to manifest, practise, develop and teach their spiritual and religious traditions, customs and ceremonies; the right to maintain, protect, and have access in privacy to their religious and cultural sites; the right to the use and control of ceremonial objects; and the right to the repatriation of human remains.

States shall take effective measures, in conjunction with the indigenous peoples concerned, to ensure that indigenous sacred places, including burial sites, be preserved, respected and protected.

Article 14

Indigenous peoples have the right to revitalize, use, develop and transmit to future generations their histories, languages, oral traditions, philosophies, writing systems and literatures, and to designate and retain their own names for communities, places and persons.

States shall take effective measures, whenever any right of indigenous peoples may be threatened, to ensure this right is protected and also to ensure that they can understand and be understood in political, legal and administrative proceedings, where necessary through the provision of interpretation or by other appropriate means.

PART IV

Article 15

Indigenous children have the right to all levels and forms of education of the State. All indigenous peoples also have this right and the right to establish and control their educational systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning.

Indigenous children living outside their communities have the right to be provided access to education in their own culture and language.

States shall take effective measures to provide appropriate resources for these purposes.

Article 16

Indigenous peoples have the right to have the dignity and diversity of their cultures, traditions, histories and aspirations appropriately reflected in all forms of education and public information.

States shall take effective measures, in consultation with the indigenous peoples concerned, to eliminate prejudice and discrimination and to promote tolerance, understanding and good relations among indigenous peoples and all segments of society.

Article 17

Indigenous peoples have the right to establish their own media in their own languages. They also have the right to equal access to all forms of non-indigenous media.

States shall take effective measures to ensure that State-owned media duly reflect indigenous cultural diversity.

Article 18

Indigenous peoples have the right to enjoy fully all rights established under international labour law and national labour legislation.

Indigenous individuals have the right not to be subjected to any discriminatory conditions of labour, employment or salary.

PART V

Article 19

Indigenous peoples have the right to participate fully, if they so choose, at all levels of decision-making in matters which may affect their rights, lives and destinies through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions.

Article 20

Indigenous peoples have the right to participate fully, if they so choose, through procedures determined by them, in devising legislative or administrative measures that may affect them.

States shall obtain the free and informed consent of the peoples concerned before adopting and implementing such measures.

Article 21

Indigenous peoples have the right to maintain and develop their political, economic and social systems, to be secure in the enjoyment of their own means of subsistence and development, and to engage freely in all their traditional and other economic activities. Indigenous peoples who have been deprived of their means of subsistence and development are entitled to just and fair compensation.

Article 22

Indigenous peoples have the right to special measures for the immediate, effective and continuing improvement of their economic and social conditions, including in the areas of employment, vocational training and retraining, housing, sanitation, health and social security.

Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and disabled persons.

Article 23

Indigenous peoples have the right to determine and develop priorities and strategies for exercising their right to development. In particular, indigenous peoples have the right to determine and develop all health, housing and other economic and social programmes affecting them and, as far as possible, to administer such programmes through their own institutions.

Article 24

Indigenous peoples have the right to their traditional medicines and health practices, including the right to the protection of vital medicinal plants, animals and minerals.

They also have the right to access, without any discrimination, to all medical institutions, health services and medical care.

PART VI

Article 25

Indigenous peoples have the right to maintain and strengthen their distinctive spiritual and material relationship with the lands, territories, waters and coastal seas and other resources which they have traditionally owned or otherwise occupied or used, and to uphold their responsibilities to future generations in this regard.

Article 26

Indigenous peoples have the right to own, develop, control and use the lands and territories, including the total environment of the lands, air, waters, coastal seas, sea-ice, flora and fauna and other resources which they have traditionally owned or otherwise occupied or used. This includes the right to the full recognition of their laws, traditions and customs, land-tenure systems and institutions for the development and management of resources, and the right to effective measures by States to prevent any interference with, alienation of or encroachment upon these rights.

Article 27

Indigenous peoples have the right to the restitution of the lands, territories and resources which they have traditionally owned or otherwise occupied or used, and which have been confiscated, occupied, used or damaged

without their free and informed consent. Where this is not possible, they have the right to just and fair compensation. Unless otherwise freely agreed upon by the peoples concerned, compensation shall take the form of lands, territories and resources equal in quality, size and legal status.

Article 28

Indigenous peoples have the right to the conservation, restoration and protection of the total environment and the productive capacity of their lands, territories and resources, as well as to assistance for this purpose from States and through international cooperation. Military activities shall not take place in the lands and territories of indigenous peoples, unless otherwise freely agreed upon by the peoples concerned.

States shall take effective measures to ensure that no storage or disposal of hazardous materials shall take place in the lands and territories of indigenous peoples.

States shall also take effective measures to ensure, as needed, that programmes for monitoring, maintaining and restoring the health of indigenous peoples, as developed and implemented by the peoples affected by such materials, are duly implemented.

Article 29

Indigenous peoples are entitled to the recognition of the full ownership, control and protection of their cultural and intellectual property.

They have the right to special measures to control, develop and protect their sciences, technologies and cultural manifestations, including human and other genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literatures, designs and visual and performing arts.

Article 30

Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands, territories and other resources, including the right to require that States obtain their free and informed consent prior to the approval of any project affecting their lands, territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources. Pursuant to agreement with the indigenous peoples concerned, just and fair compensation shall be provided for any such activities and measures taken to mitigate adverse environmental, economic, social, cultural or spiritual impact.

PART VII

Article 31

Indigenous peoples, as a specific form of exercising their right to self-determination, have the right to autonomy or self-government in matters

relating to their internal and local affairs, including culture, religion, education, information, media, health, housing, employment, social welfare, economic activities, land and resources management, environment and entry by non-members, as well as ways and means for financing these autonomous functions.

Article 32

Indigenous peoples have the collective right to determine their own citizenship in accordance with their customs and traditions. Indigenous citizenship does not impair the right of indigenous individuals to obtain citizenship of the States in which they live.

Indigenous peoples have the right to determine the structures and to select the membership of their institutions in accordance with their own procedures.

Article 33

Indigenous peoples have the right to promote, develop and maintain their institutional structures and their distinctive juridical customs, traditions, procedures and practices, in accordance with internationally recognized human rights standards.

Article 34

Indigenous peoples have the collective right to determine the responsibilities of individuals to their communities.

Article 35

Indigenous peoples, in particular those divided by international borders, have the right to maintain and develop contacts, relations and cooperation, including activities for spiritual, cultural, political, economic and social purposes, with other peoples across borders.

States shall take effective measures to ensure the exercise and implementation of this right.

Article 36

Indigenous peoples have the right to the recognition, observance and enforcement of treaties, agreements and other constructive arrangements concluded with States or their successors, according to their original spirit and intent, and to have States honour and respect such treaties, agreements and other constructive arrangements. Conflicts and disputes which cannot otherwise be settled should be submitted to competent international bodies agreed to by all parties concerned.

PART VIII

Article 37

States shall take effective and appropriate measures, in consultation with the indigenous peoples concerned, to give full effect to the provisions of this Declaration. The rights recognized herein shall be adopted and included in national legislation in such a manner that indigenous peoples can avail themselves of such rights in practice.

Article 38

Indigenous peoples have the right to have access to adequate financial and technical assistance, from States and through international cooperation, to pursue freely their political, economic, social, cultural and spiritual development and for the enjoyment of the rights and freedoms recognized in this Declaration.

Article 39

Indigenous peoples have the right to have access to and prompt decision through mutually acceptable and fair procedures for the resolution of conflicts and disputes with States, as well as to effective remedies for all infringements of their individual and collective rights. Such a decision shall take into consideration the customs, traditions, rules and legal systems of the indigenous peoples concerned.

Article 40

The organs and specialized agencies of the United Nations system and other intergovernmental organizations shall contribute to the full realization of the provisions of this Declaration through the mobilization, inter alia, of financial cooperation and technical assistance. Ways and means of ensuring participation of indigenous peoples on issues affecting them shall be established.

Article 41

The United Nations shall take the necessary steps to ensure the implementation of this Declaration including the creation of a body at the highest level with special competence in this field and with the direct participation of indigenous peoples. All United Nations bodies shall promote respect for and full application of the provisions of this Declaration.

PART IX

Article 42

The rights recognized herein constitute the minimum standards for the survival, dignity and well-being of the indigenous peoples of the world.

Article 43

All the rights and freedoms recognized herein are equally guaranteed to male and female indigenous individuals.

Article 44

Nothing in this Declaration may be construed as diminishing or extinguishing existing or future rights indigenous peoples may have or acquire.

Article 45

Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act contrary to the Charter of the United Nations.

Annex II

AMENDMENTS TO THE REPORT SUBMITTED BY MEMBERS OF THE WORKING GROUP

1. Corrections submitted by Mr. Alfonso Martínez to the Conclusions and Recommendations (chap. X)

Paragraph 209

Line 1

The text should be the following:

"The Working Group made every effort and completed its discussion on the draft ..." (the word "discussion" to substitute for the word "work");

Line 5

The text should be as follows:

"(resolutions 1993/30 and 1993/31), General Assembly (resolution 47/75) and, in ..." (underlined text to be added);

Line 10

The text should be as follows:

"to the above-mentioned Commission on Human Rights resolutions the members of ..." (the word "resolution" should be in the plural).

Paragraph 210

The text should read as follows:

In this respect the Working Group recommends to the Sub-Commission:

(a) To postpone the consideration of the above-mentioned draft declaration - as agreed to by the members of the Working Group in private meetings during its eleventh session and contained in Annex I of the present report - until its forty-sixth session in 1994;

(b) To request the Secretary-General to submit the above-mentioned draft declaration, as soon as possible, to the appropriate services within the Centre for Human Rights for its technical revision;

(c) To further request the Secretary-General to transmit the text of the draft declaration to indigenous peoples and organizations, Governments and intergovernmental and non-governmental organizations, as soon as the technical revision of the draft declaration is completed, and not later than 31 March 1994. The note of transmittal shall contain an explicit reference to the fact that no further amendments to the technically revised text will be accepted during the future standard-setting proceedings of the Working Group;

(d) To request its Working Group on Indigenous Populations to formally adopt the text of the draft declaration, as technically revised by the secretariat, at its first public working meeting of its twelfth session [1994], and to submit the above-mentioned text of the draft declaration for consideration of the Sub-Commission at its forty-sixth session [1994].

2. Footnotes proposed by Mr. Alfonso Martínez to be added to various articles of the draft declaration contained in Annex I

1. To article 33:

"Mr. Alfonso Martínez did not agree with the present formulation. In his opinion, the words 'in accordance with internationally recognized human rights standards', at the end of the present wording, should be deleted. In his view, the said formulation would render the right recognized therein completely meaningless in many cases, since the recognition of indigenous peoples' institutional structures and distinct juridical customs, traditions, procedures and practices would only be possible if they were 'in accordance' with non-indigenous standards. Although on many occasions indigenous and non-indigenous standards coincided, that might not always be the case."

2. To articles 37 to 45:

"The final wordings of these articles were agreed to on 17 and 18 August without Mr. Alfonso Martínez being present."

3. Amendments proposed by Mr. Boutkevitch to chapter X.A of the report

The Working Group made every effort and completed its work on the draft declaration on the rights of indigenous peoples.

The Working Group agreed on a final text of the draft declaration, which the members of the Working Group affirmed by their initials in the following way:

E.D. Erica-Irene A. Daes
Chairperson of the Working Group

A.M. Miguel Alfonso Martínez
Member of the Working Group

J.A. Judith-Sefi Attah
Member of the Working Group

V.B. Volodymyr Boutkevitch
Member of the Working Group

R.H. Ribot Hatano
Member of the Working Group

and decided to submit it to the Sub-Commission at its present session.

The Working Group recommended to the Sub-Commission to request the Secretary-General to circulate it to indigenous peoples, Governments and intergovernmental and non-governmental organizations with a special reference to the fact that no further discussion of the text would take place in the Working Group.

4. Amendments proposed by Mr. Hatano to chapter X.A of the report

Paragraph 209

Line 5

resolution 1993/31 should read resolutions 1993/30 and 1993/31.

Line 10

resolution should read resolutions.

Paragraph 210

(b) should be replaced with (c);

(c) To request the Secretary-General to circulate the draft declaration, duly edited and translated, to indigenous peoples, Governments and intergovernmental and non-governmental organizations, with a special reference to the fact that no further discussion on the submitted text would take place in the Working Group;

(d) To recommend to the Commission on Human Rights and the Economic and Social Council to take special measures so that indigenous peoples be enabled to participate fully and effectively, without regard to consultative status with the Economic and Social Council, in the consideration of the draft declaration by the Sub-Commission and other higher bodies of the United Nations, as they had thus far contributed to the work of the Working Group.

Mr. Hatano was not opposed to the submission of the draft declaration to the current session of the Sub-Commission, but he had been wondering whether or not a working group could formally adopt a draft declaration of such an importance in the course of its informal meetings, because the final text had been agreed upon by the Working Group on Indigenous Populations only on 17 August 1993, while its eleventh session, duly authorized by the Sub-Commission, the Commission on Human Rights and the Economic and Social Council, had ended on 30 July 1993.

Therefore, he was of the opinion that the final text would have to be formally adopted during the twelfth session of the Working Group, unless it was established, in the light of United Nations practice, that the Working Group was entitled to adopt the draft declaration after the end of its authorized session, or unless it was specifically authorized to do so by, at least, the Sub-Commission during its forty-fifth session.

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Sub-Commission on Prevention of
Discrimination and Protection
of Minorities
Forty-fifth session
Agenda item 14

DISCRIMINATION AGAINST INDIGENOUS PEOPLES

Report on the Working Group on Indigenous Populations on its eleventh session

Addendum

Comments by the Government of Canada

The Government of Canada commented on the following paragraphs of the report of the Working Group on Indigenous Populations:

1. Paragraph 50 should read as follows:

"50. The majority of the governmental observers expressed reservations on the issue of self-determination. The observer for Canada emphasized that his country supported the principle that indigenous people qualified for traditional rights of self-determination in international law on the same basis as non-indigenous people if they otherwise met the criteria of international law. In all other cases 'self-determination' of indigenous people had to be granted within the framework of existing nation States recognizing the need for the negotiation of harmonious arrangements and the interrelationship between the indigenous and non-indigenous jurisdictions. The notion of self-determination as used in the draft declaration might imply the right of indigenous people to unilaterally

determine their political, economic and social status within the existing State. What was not clear was how the concepts of self-determination, self-government and autonomy which were addressed in articles 3 and 29 of the draft interrelated so as to identify what range of powers indigenous governments would have and how they would relate to the jurisdiction of existing States."

2. In paragraph 62, the fourth sentence should read: "If such a clarification were not made it might imply that there was a right to secede; even if secession were not chosen, [it might still imply] the right of indigenous people to enact laws concerning their political, economic, social and cultural status without regard to or application of the laws of the surrounding State."

3. In paragraph 70, first sentence, the words "legal titles to all lands ... " should read "legal rights or all lands ... ".

4. In paragraph 194, the first sentence should read: "194. The observer for Canada indicated that his Government would endorse extending the Working Group's mandate, once the draft declaration had been finalized."